

because it does not have access to underlying information concerning the calculation of Medicare payment).

(ii) How and why the provider believes Medicare payment must be determined differently for each disputed item.

(iii) If the provider self-disallows a specific item, a description of the nature and amount of each self-disallowed item and the reimbursement or payment sought for the item.

(3) A copy of any documentary evidence the provider considers necessary to satisfy the hearing request requirements of paragraphs (d)(1) and (d)(2) of this section.

(e) *Adding issues to the hearing request.* After filing a hearing request in accordance with paragraphs (a) and (b), or paragraphs (c) and (d), of this section, a provider may add specific Medicare payment issues to the original hearing request by submitting a written request to the contractor hearing officer, only if—

(1) The request to add issues complies with the requirements of paragraphs (a) and (b), or paragraphs (c) and (d), of this section as to each new specific item at issue.

(2) The specific items raised in the initial hearing request and the specific items identified in subsequent requests to add issues, when combined, satisfy the amount in controversy requirements of paragraph (a)(2) or paragraph (c)(3) of this section.

(3) The contractor hearing officer receives the provider's request to add issues no later than 60 days after the expiration of the applicable 180-day period prescribed in paragraph (a)(3) or paragraph (c)(2) of this section.

[73 FR 30244, May 23, 2008, as amended at 79 FR 50349, Aug. 22, 2014; 79 FR 59680, Oct. 3, 2014; 80 FR 70597, Nov. 13, 2015; 85 FR 59018, Sept. 18, 2020]

**§ 405.1813 Good cause extension of time limit for requesting a contractor hearing.**

(a) A request for a contractor hearing that is received by the contractor after the applicable 180-day time limit prescribed in § 405.1811(a)(3) or § 405.1811(c)(2) must be dismissed by the contractor hearing officer(s), except that the hearing officer(s) may extend

the time limit upon a good cause showing by the provider.

(b) The contractor hearing officer(s) may find good cause to extend the time limit only if the provider demonstrates in writing it could not reasonably have been expected to file timely due to extraordinary circumstances beyond its control (such as a natural or other catastrophe, fire, or strike), and the provider's written request for an extension is received by the contractor hearing officer(s) within a reasonable time (as determined by the contractor hearing officer(s) under the circumstances) after the expiration of the applicable 180-day limit prescribed in § 405.1811(a)(3) or § 405.1811(c)(2).

(c) The contractor hearing officer(s) may not grant a request for an extension under this section if—

(1) The provider relies on a change in the law, regulations, CMS Rulings, or general CMS instructions (whether based on a court decision or otherwise) or a CMS administrative ruling or policy as the basis for the extension request; or

(2) The date of receipt by the contractor of the provider's extension request is later than 3 years after the date of the contractor or other determination that the provider seeks to appeal.

(d) If an extension request is granted or denied under this section, the contractor hearing officer(s) must send prompt written notice to the provider, and send a copy to each party to the appeal. The notice must include an explanation of the reasons for the decision by the hearing officer(s) and the facts underlying the decision.

(e)(1) A decision denying an extension request under this section and dismissing the appeal is final and binding on the provider, unless the dismissal decision is reviewed by a CMS reviewing official in accordance with § 405.1834(b)(2)(i) of this subpart or reopened and revised by the contractor hearing officer(s) in accordance with § 405.1885 through § 405.1889 of this subpart. The contractor hearing officer(s) promptly sends the decision to the appropriate component of CMS (currently the Center for Medicare Management) (as specified in § 405.1834(b)(4) of this subpart).

(2) A decision granting an extension request under this section is not subject to immediate review by a CMS reviewing official (as described in § 405.1834(b)(3) of this subpart). Any decision may be examined during the course of CMS review of a final jurisdictional dismissal decision or a final hearing decision by the contractor hearing officer(s) (as described in §§ 405.1834(b)(2)(i) and 405.1834(b)(2)(ii) of this subpart).

[73 FR 30245, May 23, 2008, as amended at 80 FR 70598, Nov. 13, 2015; 85 FR 59019, Sept. 18, 2020]

**§ 405.1814 Contractor hearing officer jurisdiction.**

(a) *General rules.* (1) After a request for a contractor hearing is filed under § 405.1811 of this subpart, the contractor hearing officer(s) must do the following:

(i) Determine in accordance with paragraph (b) of this section whether or not it has jurisdiction to grant a hearing on each of the specific matters at issue in the hearing request.

(ii) Make a preliminary determination of the scope of its jurisdiction (that is, whether the request for hearing was timely, and whether the amount in controversy requirement has been met), if any, over the matters at issue in the appeal before conducting any of the following proceedings:

(A) Determining its authority to decide a legal question relevant to a matter at issue (as described in § 405.1829 of this subpart);

(B) Permitting discovery (as specified in § 405.1821 of this subpart); or

(C) Conducting a hearing (as specified in § 405.1819 of this subpart);

(2) The hearing officer(s) may revise a preliminary jurisdictional determination at any subsequent stage of the proceedings in an appeal, and it must promptly notify the parties of any revised determination.

(3) Under paragraph (c)(1) of this section, each contractor hearing decision (as described in § 405.1831 of this subpart) must include a final jurisdictional finding for each specific matter at issue in the appeal.

(4) If the hearing officer(s) finally determines it lacks jurisdiction over

every specific matter at issue in the appeal, it issues a jurisdictional dismissal decision under paragraph (c)(2) of this section.

(5) Final jurisdictional findings and jurisdictional dismissal decisions by the hearing officer(s) are subject to the CMS reviewing official procedure in accordance with paragraph (d) of this section and § 405.1834(b)(2)(i) and (b)(2)(ii) of this subpart.

(b) *Criteria.* Except for the amount in controversy requirement, the jurisdiction of the contractor hearing officer(s) to grant a hearing is determined separately for each specific matter at issue in the contractor or Secretary determination for the cost reporting period under appeal. The hearing officer(s) has jurisdiction to grant a hearing over a specific matter at issue in an appeal only if the provider has a right to a contractor hearing under § 405.1811. Certain matters at issue are removed from the jurisdiction of the contractor hearing officer(s); these matters include, but are not limited to, the following:

(1) A finding in a contractor determination that expenses incurred for certain items or services furnished by a provider to an individual are not payable under title XVIII of the Act because those items and services are excluded from coverage under section 1862 of the Act and part 411 of the regulations. Review of these findings is limited to the applicable provisions of sections 1155, 1869, and 1879(d) of the Act, and of subpart I of part 405 and subpart B of part 478, as applicable.

(2) Certain matters affecting payments to hospitals under the prospective payment system, as provided in section 1886(d)(7) of the Act and § 405.1804 of this subpart.

(c) *Final jurisdictional findings, and jurisdictional dismissal decisions by contractor hearing officer(s).* (1) In issuing a hearing decision under § 405.1831 of this subpart, the contractor hearing officer(s) must make a final determination of its jurisdiction, or lack thereof, for each specific matter at issue in the hearing decision. Each contractor hearing decision must include specific findings of fact and conclusions of law as