

section. If the contractor hearing officer(s) issues a hearing decision regarding the specific item under appeal (pursuant to §405.1831), any specific findings of fact and conclusions of law by the contractor hearing officer(s) (reached under paragraph (b)(1) of this section), on the question of whether the provider's cost report included an appropriate claim for the specific item, must be included in such hearing decision along with the other matters prescribed by §405.1831. The contractor hearing officer(s)'s factual findings and legal conclusions (in accordance with paragraph (b)(1) of this section) about whether there was an appropriate cost report claim for the specific item under appeal are subject to the provisions of §405.1833 just as those provisions apply to the other parts of the contractor hearing decision. If the contractor hearing officer(s) determines that the provider's cost report—

(1) Included an appropriate claim for the specific item under appeal (as prescribed in §413.24(j) of this chapter), the contractor hearing decision also must address whether the other substantive reimbursement requirements for the specific item are also satisfied; or

(2) Did not include an appropriate claim for the specific item under appeal, the contractor hearing officer(s) has discretion whether or not to address in the contractor hearing decision whether the other substantive reimbursement requirements for the specific item are also satisfied.

(e) *Contractor jurisdictional dismissal decision must not include factual findings and legal conclusions under paragraph (b)(1) of this section.* If the contractor hearing officer(s) issues a jurisdictional dismissal decision regarding the specific item under appeal (in accordance with §405.1814(c)), the contractor hearing officer(s)'s specific findings of fact and conclusions of law (in accordance with paragraph (b)(1) of this section) on the question of whether the provider's cost report included an appropriate claim for the specific item must not be included in such jurisdictional dismissal decision.

(f) Effects of the contractor hearing officer(s)'s factual findings and legal conclusions under paragraph (b)(1) of this section when part of a final con-

tractor hearing decision. If the contractor hearing officer(s) determines, as part of a final and binding contractor hearing decision (pursuant to §405.1833 and paragraphs (b)(1) and (d) of this section), that the provider's cost report—

(1) Included an appropriate claim for the specific item under appeal (as prescribed in §413.24(j) of this chapter), the specific item is reimbursable in accordance with Medicare policy, but only if the contractor hearing officer(s) further determines in such final contractor hearing decision that all the other substantive reimbursement requirements for the specific item are also satisfied; or

(2) Did not include an appropriate cost report claim for the specific item under appeal, the specific item is not reimbursable, regardless of whether the contractor hearing officer(s) further determines in such final contractor hearing decision that the other substantive reimbursement requirements for the specific item are or are not satisfied.

[80 FR 70598, Nov. 13, 2015]

§ 405.1833 Effect of contractor hearing decision.

A contractor hearing decision issued in accordance with §405.1831 of this subpart is final and binding on all parties to the contractor hearing and on the contractor, unless the hearing decision is reviewed by a CMS reviewing official in accordance with §405.1834 of this subpart or reopened and revised by the contractor hearing officer(s) in accordance with §405.1885 through §405.1889 of this subpart. Final contractor hearing decisions are subject to the provisions of §405.1803(d) of this subpart.

[73 FR 30248, May 23, 2008; 73 FR 49356, Aug. 21, 2008]

§ 405.1834 CMS reviewing official procedure.

(a) *Scope.* A provider that is a party to, and dissatisfied with, a final decision by the contractor hearing officer(s), upon submitting a request that meets the requirements of paragraph (c) of this section, is entitled to further administrative review of the decision,