

(iii) Meet the requirements of § 405.964.

(3) *How the QIC determines whether good cause exists.* In determining whether a party has good cause for missing a deadline to request reconsideration, the QIC applies the good cause provisions contained in § 405.942(b)(2) and (b)(3).

[70 FR 11472, Mar. 8, 2005, as amended at 74 FR 65334, Dec. 9, 2009]

**§ 405.964 Place and method of filing a request for a reconsideration.**

(a) *Filing location.* The request for reconsideration must be filed with the QIC indicated on the notice of redetermination.

(b) *Content of reconsideration request.* The request for reconsideration must be in writing and should be made on a standard CMS form. A written request that is not made on a standard CMS form is accepted if it contains the same required elements, as follows:

- (1) The beneficiary's name;
- (2) Medicare number;
- (3) Specific service(s) and item(s) for which the reconsideration is requested and the specific date(s) of service;
- (4) The name of the party or the representative of the party; and
- (5) The name of the contractor that made the redetermination.

(c) *Requests for reconsideration by more than one party.* If more than one party timely files a request for reconsideration on the same claim before a reconsideration is made on the first timely filed request, the QIC must consolidate the separate requests into one proceeding and issue one reconsideration.

[70 FR 11472, Mar. 8, 2005, as amended at 84 FR 19870, May 7, 2019]

**§ 405.966 Evidence to be submitted with the reconsideration request.**

(a) *Evidence submitted with the request.* When filing a request for reconsideration, a party should present evidence and allegations of fact or law related to the issue in dispute and explain why it disagrees with the initial determination, including the redetermination.

(1) This evidence must include any missing documentation identified in the notice of redetermination, consistent with § 405.956(b)(6).

(2) Absent good cause, failure to submit all evidence, including documentation requested in the notice of redetermination prior to the issuance of the notice of reconsideration precludes subsequent consideration of that evidence.

(b) *Evidence submitted after the request.* Each time a party submits additional evidence after filing the request for reconsideration, the QIC's 60 calendar day decisionmaking timeframe is automatically extended by up to 14 calendar days for each submission. This extension does not apply to timely submissions of documentation specifically requested by a QIC, unless the documentation was originally requested in the notice of redetermination.

(c) *Exception for beneficiaries and State Medicaid Agencies that file reconsideration requests.* (1) Beneficiaries and State Medicaid Agencies that file requests for reconsideration are not required to comply with the requirements of paragraph (a) of this section. However, the automatic 14 calendar day extension described in paragraph (b) of this section applies to each evidence submission made after the request for reconsideration is filed.

(2) Beneficiaries who are represented by providers or suppliers must comply with the requirements of paragraph (a) of this section.

[70 FR 11472, Mar. 8, 2005, as amended at 74 FR 65334, Dec. 9, 2009]

**§ 405.968 Conduct of a reconsideration.**

(a) *General rules.* (1) A reconsideration consists of an independent, on-the-record review of an initial determination, including the redetermination and all issues related to payment of the claim. In conducting a reconsideration, the QIC reviews the evidence and findings upon which the initial determination, including the redetermination, was based, and any additional evidence the parties submit or that the QIC obtains on its own. If the initial determination involves a finding on whether an item or service is reasonable and necessary for the diagnosis or treatment of illness or injury (under section 1862(a)(1)(A) of the Act), a QIC's reconsideration must involve consideration by a panel of physicians

or other appropriate health care professionals, and be based on clinical experience, the patient's medical records, and medical, technical, and scientific evidence of record to the extent applicable.

(b) *Authority of the QIC.* (1) National coverage determinations (NCDs), CMS Rulings, Council decisions designated by the Chair of the Departmental Appeals Board as having precedential effect under § 401.109 of this chapter, and applicable laws and regulations are binding on the QIC.

(2) QICs are not bound by LCDs, LMRPs, or CMS program guidance, such as program memoranda and manual instructions, but give substantial deference to these policies if they are applicable to a particular case. A QIC may decline to follow a policy, if the QIC determines, either at a party's request or at its own discretion, that the policy does not apply to the facts of the particular case.

(3) If a QIC declines to follow a policy in a particular case, the QIC's reconsideration explains the reasons why the policy was not followed.

(4) A QIC's decision to decline to follow a policy under this section applies only to the specific claim being reconsidered and does not have precedential effect.

(5) A QIC may raise and develop new issues that are relevant to the claims in a particular case provided that the contractor rendered a redetermination with respect to the claims.

(c) *Qualifications of the QIC's panel members.* (1) Members of a QIC's panel who conduct reconsiderations must have sufficient medical, legal, and other expertise, including knowledge of the Medicare program.

(2) When a redetermination is made with respect to whether an item or service is reasonable and necessary (section 1862(a)(1)(A) of the Act), the QIC designates a panel of physicians or other appropriate health care professionals to consider the facts and circumstances of the redetermination.

(3) Where a claim pertains to the furnishing of treatment by a physician, or the provision of items or services by a physician, a reviewing professional must be a physician.

(d) *Disqualification of a QIC panel member.* No physician or health care professional employed by or otherwise working for a QIC may review determinations regarding—

(1) Health care services furnished to a patient if that physician or health care professional was directly responsible for furnishing those services; or

(2) Health care services provided in or by an institution, organization, or agency, if that physician or health care professional or any member of the physician's family or health care professional's family has, directly or indirectly, a significant financial interest in that institution, organization, or agency (see the term family member as defined in § 405.902).

[70 FR 11472, Mar. 8, 2005, as amended at 82 FR 5107, Jan. 17, 2017]

**§ 405.970 Timeframe for making a reconsideration following a contractor redetermination.**

(a) *General rule.* Within 60 calendar days of the date the QIC receives a timely filed request for reconsideration following a contractor redetermination or any additional time provided by paragraph (b) of this section, the QIC mails, or otherwise transmits to the parties at their last known addresses, written notice of—

(1) The reconsideration;

(2) Its inability to complete its review within 60 calendar days in accordance with paragraphs (c) through (e) of this section; or

(3) Dismissal.

(b) *Exceptions.* (1) If a QIC grants an appellant's request for an extension of the 180 calendar day filing deadline made in accordance with § 405.962(b), the QIC's 60 calendar day decision-making timeframe begins on the date the QIC receives the late filed request for reconsideration following a contractor redetermination, or when the request for an extension that meets the requirements of § 405.962(b) is granted, whichever is later.

(2) If a QIC receives timely requests for reconsideration following a contractor redetermination from multiple parties, consistent with § 405.964(c), the QIC must issue a reconsideration, notice that it cannot complete its review, or dismissal within 60 calendar days for