

§ 422.570

(g) *Dismissing a request.* The MA organization dismisses an organization determination request, either entirely or as to any stated issue, under any of the following circumstances:

(1) The individual or entity making the request is not permitted to request an organization determination under § 422.566(c).

(2) The MA organization determines the party failed to make out a valid request for an organization determination that substantially complies with paragraph (a) of this section.

(3) An enrollee or the enrollee's representative files a request for an organization determination, but the enrollee dies while the request is pending, and both of the following apply:

(i) The enrollee's surviving spouse or estate has no remaining financial interest in the case.

(ii) No other individual or entity with a financial interest in the case wishes to pursue the organization determination.

(4) A party filing the organization determination request submits a timely request for withdrawal of their request for an organization determination with the MA organization.

(h) *Notice of dismissal.* The MA organization must mail or otherwise transmit a written notice of the dismissal of the organization determination request to the parties. The notice must state all of the following:

(1) The reason for the dismissal.

(2) The right to request that the MA organization vacate the dismissal action.

(3) The right to request reconsideration of the dismissal.

(i) *Vacating a dismissal.* If good cause is established, the MA organization may vacate its dismissal of a request for an organization determination within 6 months from the date of the notice of dismissal.

(j) *Effect of dismissal.* The dismissal of a request for an organization determination is binding unless it is modified or reversed by the MA organization upon reconsideration or vacated under paragraph (i) of this section.

(k) *Withdrawing a request.* A party that requests an organization determination may withdraw its request at any time before the decision is issued

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by filing a request with the MA organization.

[65 FR 40329, June 29, 2000, as amended at 70 FR 4739, Jan. 28, 2005; 70 FR 52027, Sept. 1, 2005; 75 FR 19812, Apr. 15, 2010; 75 FR 32859, June 10, 2010; 80 FR 7961, Feb. 12, 2015; 84 FR 23880, May 23, 2019; 86 FR 6101, Jan. 19, 2021; 89 FR 8976, Feb. 8, 2024]

§ 422.570 Expediting certain organization determinations.

(a) *Request for expedited determination.* An enrollee or a physician (regardless of whether the physician is affiliated with the MA organization) may request that an MA organization expedite an organization determination involving the issues described in § 422.566(b)(3) and (b)(4). (This does not include requests for payment of services already furnished.)

(b) *How to make a request.* (1) To ask for an expedited determination, an enrollee or a physician must submit an oral or written request directly to the MA organization or, if applicable, to the entity responsible for making the determination, as directed by the MA organization.

(2) A physician may provide oral or written support for a request for an expedited determination.

(c) *How the MA organization must process requests.* The MA organization must establish and maintain the following procedures for processing requests for expedited determinations:

(1) Establish an efficient and convenient means for individuals to submit oral or written requests. The MA organization must document all oral requests in writing and maintain the documentation in the case file.

(2) Promptly decide whether to expedite a determination, based on the following requirements:

(i) For a request made by an enrollee the MA organization must provide an expedited determination if it determines that applying the standard timeframe for making a determination could seriously jeopardize the life or health of the enrollee or the enrollee's ability to regain maximum function.

(ii) For a request made or supported by a physician, the MA organization must provide an expedited determination if the physician indicates that applying the standard timeframe for

making a determination could seriously jeopardize the life or health of the enrollee or the enrollee's ability to regain maximum function.

(d) *Actions following denial.* If an MA organization denies a request for expedited determination, it must take the following actions:

(1) Automatically transfer a request to a standard organization determination and make the determination within the applicable timeframe, established in § 422.568 for a standard determination. The timeframe begins when the MA organization receives the request for expedited determination.

(2) Give the enrollee prompt oral notice of the denial and subsequently deliver, within 3 calendar days, a written letter that—

(i) Explains that the MA organization will process the request using the 14-day timeframe for standard determinations;

(ii) Informs the enrollee of the right to file an expedited grievance if he or she disagrees with the MA organization's decision not to expedite; and

(iii) Informs the enrollee of the right to resubmit a request for an expedited determination with any physician's support; and

(iv) Provides instructions about the grievance process and its timeframes.

(e) *Action on accepted request for expedited determination.* If an MA organization grants a request for expedited determination, it must make the determination and give notice in accordance with § 422.572.

(f) *Prohibition of punitive action.* An MA organization may not take or threaten to take any punitive action against a physician acting on behalf or in support of an enrollee in requesting an expedited determination.

(g) *Dismissing a request.* The MA organization dismisses an expedited organization request in accordance with § 422.568.

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§ 422.572 Timeframes and notice requirements for expedited organization determinations.

(a) *Timeframes—(1) Requests for service or item.* Except as provided in paragraph (b) of this section, an MA organization that approves a request for expedited determination must make its determination and notify the enrollee (and the physician involved, as appropriate) of its decision, whether adverse or favorable, as expeditiously as the enrollee's health condition requires, but no later than 72 hours after receiving the request.

(2) *Requests for a Part B drug.* An MA organization that approves a request for expedited determination must make its determination and notify the enrollee (and the physician or prescriber involved, as appropriate) of its decision as expeditiously as the enrollee's health condition requires, but no later than 24 hours after receiving the request. This 24-hour period may not be extended under the provisions in paragraph (b) of this section.

(b) *Extensions; requests for service or item.* (1) When timeframe may be extended. The MA organization may extend the 72-hour deadline for expedited organization determinations for requests for services or items by up to 14 calendar days if—

(i) The enrollee requests the extension;

(ii) The extension is justified and in the enrollee's interest due to the need for additional medical evidence from a noncontract provider that may change an MA organization's decision to deny an item or service; or

(iii) The extension is justified due to extraordinary, exigent, or other non-routine circumstances and is in the enrollee's interest.

(2) *Notice of extension.* When the MA organization extends the deadline, it must notify the enrollee in writing of the reasons for the delay and inform the enrollee of the right to file an expedited grievance if he or she disagrees with the MA organization's decision to grant an extension. The MA organization must notify the enrollee of its determination as expeditiously as the enrollee's health condition requires, but no later than upon expiration of the extension.