

## § 422.574

(c) *Confirmation of oral notice.* If the MA organization first notifies an enrollee of an adverse expedited determination orally, it must mail written confirmation to the enrollee within 3 calendar days of the oral notification.

(d) *How the MA organization must request information from noncontract providers.* If the MA organization must receive medical information from noncontract providers, the MA organization must request the necessary information from the noncontract provider within 24 hours of the initial request for an expedited organization determination. Noncontract providers must make reasonable and diligent efforts to expeditiously gather and forward all necessary information to assist the MA organization in meeting the required timeframe. Regardless of whether the MA organization must request information from noncontract providers, the MA organization is responsible for meeting the timeframe and notice requirements of this section.

(e) *Content of the notice of expedited determination.* (1) The notice of any expedited determination must state the specific reasons for the determination in understandable language.

(2) If the determination is not completely favorable to the enrollee, the notice must—

(i) Inform the enrollee of his or her right to a reconsideration;

(ii) Describe both the standard and expedited reconsideration processes, including the enrollee's right to request, and conditions for obtaining, an expedited reconsideration, and the rest of the appeal process; and

(iii) Comply with any other requirements specified by CMS.

(f) *Effect of failure to provide a timely notice.* If the MA organization fails to provide the enrollee with timely notice of an expedited organization determination as specified in this section, this failure itself constitutes an adverse organization determination and may be appealed.

[63 FR 35107, June 26, 1998, as amended at 65 FR 40329, June 29, 2000; 70 FR 4739, Jan. 28, 2005; 80 FR 7961, Feb. 12, 2015; 84 FR 23881, May 23, 2019]

## 42 CFR Ch. IV (10–1–24 Edition)

### § 422.574 Parties to the organization determination.

The parties to the organization determination are—

(a) The enrollee (including his or her representative);

(b) An assignee of the enrollee (that is, a physician or other provider who has furnished a service to the enrollee and formally agrees to waive any right to payment from the enrollee for that service);

(c) The legal representative of a deceased enrollee's estate; or

(d) Any other provider or entity (other than the MA organization) determined to have an appealable interest in the proceeding.

[63 FR 35107, June 26, 1998, as amended at 75 FR 19812, Apr. 15, 2010]

### § 422.576 Effect of an organization determination.

The organization determination is binding on all parties unless it is reconsidered under §§ 422.578 through 422.596 or is reopened and revised under § 422.616.

### § 422.578 Right to a reconsideration.

Any party to an organization determination (including one that has been reopened and revised as described in § 422.616) may request that the determination be reconsidered under the procedures described in § 422.582, which address requests for a standard reconsideration. A physician who is providing treatment to an enrollee may, upon providing notice to the enrollee, request a standard reconsideration of a pre-service request for reconsideration on the enrollee's behalf as described in § 422.582. An enrollee or physician (acting on behalf of an enrollee) may request an expedited reconsideration as described in § 422.584.

[74 FR 1542, Jan. 12, 2009]

### § 422.580 Reconsideration defined.

A reconsideration consists of a review of an adverse organization determination, the evidence and findings upon which it was based, and any other evidence the parties submit or the MA organization or CMS obtains.

**§ 422.582 Request for a standard reconsideration.**

(a) *Method and place for filing a request.* A party to an organization determination or, upon providing notice to the enrollee, a physician who is treating an enrollee and acting on the enrollee's behalf, must ask for a reconsideration of the determination by making a written request to the MA organization that made the organization determination. The MA organization may adopt a policy for accepting oral requests.

(b) *Timeframe for filing a request.* Except as provided in paragraph (c) of this section, a request for reconsideration must be filed within 60 calendar days after receipt of the written organization determination notice.

(1) The date of receipt of the organization determination is presumed to be 5 calendar days after the date of the written organization determination, unless there is evidence to the contrary.

(2) For purposes of meeting the 60-calendar day filing deadline, the request is considered as filed on the date it is received by the plan or delegated entity specified in the MA organization's written organization determination.

(c) *Extending the time for filing a request.* (1) *General rule.* If a party or physician acting on behalf of an enrollee shows good cause, the MA organization may extend the timeframe for filing a request for reconsideration.

(2) *How to request an extension of timeframe.* If the 60-day period in which to file a request for reconsideration has expired, a party to the organization determination or a physician acting on behalf of an enrollee may file a request for reconsideration with the MA organization. The request for reconsideration and to extend the timeframe must—

- (i) Be in writing; and
- (ii) State why the request for reconsideration was not filed on time.

(d) *Parties to the reconsideration.* The parties to the reconsideration are the parties to the organization determination, as described in § 422.574, and any other provider or entity (other than the MA organization) whose rights with respect to the organization deter-

mination may be affected by the reconsideration, as determined by the entity that conducts the reconsideration.

(e) *Withdrawing a request.* The party or physician acting on behalf of an enrollee who files a request for reconsideration may withdraw it by filing a request for withdrawal at one of the places listed in paragraph (a) of this section.

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

(1) The person or entity requesting a reconsideration is not a proper party under § 422.578.

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

(3) The party fails to file the reconsideration request within the proper filing time frame in accordance with paragraph (b) of this section.

(4) The enrollee or the enrollee's representative files a request for a reconsideration, but the enrollee dies while the request is pending, and both of the following criteria 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 reconsideration.

(5) A party filing the reconsideration request submits a timely request for withdrawal of the request for a reconsideration with the MA organization.

(g) *Notice of dismissal.* The MA organization must mail or otherwise transmit a written notice of the dismissal of the reconsideration 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 review of the dismissal by the independent entity.

(h) *Vacating a dismissal.* If good cause is established, the MA organization may vacate its dismissal of a request for reconsideration within 6 months