

§ 422.594

§ 422.602 or the dismissal is vacated under paragraph (f) of this section.

(h) The party or physician acting on behalf of an enrollee who files a request for reconsideration may withdraw the request by filing a request for withdrawal with the independent entity.

(i) If the independent entity determines that the MA organization's dismissal was in error, the independent entity vacates the dismissal and remands the case to the plan for reconsideration consistent with § 422.590. The independent entity's decision regarding an MA organization's dismissal, including a decision to deny a request for review of a dismissal, is binding and not subject to further review.

[63 FR 35107, June 26, 1998, as amended at 86 FR 6102, Jan. 19, 2021]

§ 422.594 Notice of reconsidered determination by the independent entity.

(a) *Responsibility for the notice.* When the independent entity makes the reconsidered determination, it is responsible for mailing a notice of its reconsidered determination to the parties and for sending a copy to CMS.

(b) *Content of the notice.* The notice must—

(1) State the specific reasons for the entity's decisions in understandable language;

(2) If the reconsidered determination is adverse (that is, does not completely reverse the MA organization's adverse organization determination), inform the parties of their right to an ALJ hearing if the amount in controversy meets the requirements of § 422.600;

(3) Describe the procedures that a party must follow to obtain an ALJ hearing; and

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

[63 FR 35107, June 26, 1998, as amended at 65 FR 40330, June 29, 2000; 82 FR 5125, Jan. 17, 2017]

§ 422.596 Effect of a reconsidered determination.

A reconsidered determination is final and binding on all parties unless a party other than the MA organization files a request for a hearing under the provisions of § 422.602, or unless the re-

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considered determination is revised under § 422.616.

[65 FR 40331, June 29, 2000]

§ 422.600 Right to a hearing.

(a) If the amount remaining in controversy after reconsideration meets the threshold requirement established annually by the Secretary, any party to the reconsideration (except the MA organization) who is dissatisfied with the reconsidered determination has a right to a hearing before an ALJ.

(b) The amount remaining in controversy, which can include any combination of Part A and Part B services, is computed in accordance with part 405 of this chapter. For purposes of calculating the amount remaining in controversy under this section, references to coinsurance in § 405.1006(d) of this chapter should be read to include coinsurance and copayment amounts.

(c) If the basis for the appeal is the MA organization's refusal to provide services, CMS uses the projected value of those services to compute the amount remaining in controversy.

[63 FR 35107, June 26, 1998, as amended at 70 FR 4740, Jan. 28, 2005; 86 FR 6102, Jan. 19, 2021]

§ 422.602 Request for an ALJ hearing.

(a) *How and where to file a request.* A party must file a written request for a hearing with the entity specified in the IRE's reconsideration notice.

(b) *When to file a request.* (1) Except when an ALJ or attorney adjudicator extends the time frame as provided in part 405 of this chapter, a party must file a request for a hearing within 60 calendar days of receipt of the notice of a reconsidered determination. The time and place for a hearing before an ALJ will be set in accordance with § 405.1020 of this chapter.

(2) For purposes of this section, the date of receipt of the reconsideration is presumed to be 5 calendar days after the date of the notice of the reconsidered determination, unless there is evidence to the contrary.

(c) *Parties to a hearing.* The parties to a hearing are the parties to the reconsideration, the MA organization, and any other person or entity whose rights with respect to the reconsideration