

## § 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

may be affected by the hearing, as determined by the ALJ.

(d) *Insufficient amount in controversy.*

(1) If a request for a hearing clearly shows that the amount in controversy is less than that required under § 422.600, the ALJ dismisses the request.

(2) If, after a hearing is initiated, the ALJ finds that the amount in controversy is less than the amount required under § 422.600, the ALJ discontinues the hearing and does not rule on the substantive issues raised in the appeal.

[63 FR 35107, June 26, 1998, as amended at 70 FR 4740, Jan. 28, 2005; 82 FR 5125, Jan. 17, 2017]

#### **§ 422.608 Medicare Appeals Council (Council) review.**

Any party to the ALJ's or attorney adjudicator's decision or dismissal, including the MA organization, who is dissatisfied with the decision or dismissal, may request that the Council review the decision or dismissal. The regulations under part 405 of this chapter regarding Council review apply to matters addressed by this subpart to the extent that they are appropriate, except as provided in § 422.562(d)(2).

[82 FR 5125, Jan. 17, 2017]

#### **§ 422.612 Judicial review.**

(a) *Review of ALJ's or attorney adjudicator's decision.* Any party, including the MA organization, may request judicial review (upon notifying the other parties) of an ALJ's or attorney adjudicator's decision if—

(1) The Council denied the party's request for review; and

(2) The amount in controversy meets the threshold requirement established annually by the Secretary.

(b) *Review of Council decision.* Any party, including the MA organization, may request judicial review (upon notifying the other parties) of the Council decision if it is the final decision of CMS and the amount in controversy meets the threshold established in paragraph (a)(2) of this section.

(c) *How to request judicial review.* In order to request judicial review, a party must file a civil action in a district court of the United States in accordance with section 205(g) of the Act.

See part 405 of this chapter for a description of the procedures to follow in requesting judicial review.

[63 FR 35107, June 26, 1998; 63 FR 52614, Oct. 1, 1998, as amended at 65 FR 40331, June 29, 2000; 70 FR 4740, Jan. 28, 2005; 82 FR 5125, Jan. 17, 2017]

#### **§ 422.616 Reopening and revising determinations and decisions.**

(a) An organization or reconsidered determination made by an MA organization, a reconsidered determination made by the independent entity described in § 422.592, or the decision of an ALJ or attorney adjudicator or the Council that is otherwise final and binding may be reopened and revised by the entity that made the determination or decision, under the rules in part 405 of this chapter.

(b) Reopening may be at the instigation of any party.

(c) The filing of a request for reopening does not relieve the MA organization of its obligation to make payment or provide services as specified in § 422.618.

(d) Once an entity issues a revised determination or decision, any party may file an appeal.

[63 FR 35107, June 26, 1998; 63 FR 52614, Oct. 1, 1998, as amended at 70 FR 4740, Jan. 28, 2005; 82 FR 5125, Jan. 17, 2017]

#### **§ 422.618 How an MA organization must effectuate standard reconsidered determinations or decisions.**

(a) *Reversals by the MA organization—*

(1) *Requests for service.* If, on reconsideration of a request for service, the MA organization completely reverses its organization determination, the organization must authorize or provide the service under dispute as expeditiously as the enrollee's health condition requires, but no later than 30 calendar days after the date the MA organization receives the request for reconsideration (or no later than upon expiration of an extension described in § 422.590(f)).

(2) *Requests for payment.* If, on reconsideration of a request for payment, the MA organization completely reverses its organization determination, the organization must pay for the service no later than 60 calendar days after