

§ 422.641

the enrollee received the disputed services while the integrated reconsideration was pending, the applicable integrated plan or the State must pay for those services, in accordance with State policy and regulations. If the applicable integrated plan reverses a decision to deny, limit, or delay Medicare-covered benefits, and the enrollee received the disputed services while the integrated reconsideration was pending, the applicable integrated plan must pay for those services.

[63 FR 35107, June 26, 1998, as amended at 87 FR 27898, May 9, 2022]

Subpart N—Medicare Contract Determinations and Appeals

SOURCE: 63 FR 35113, June 26, 1998, unless otherwise noted.

§ 422.641 Contract determinations.

This subpart establishes the procedures for making and reviewing the following contract determinations:

(a) A determination that an entity is not qualified to enter into a contract with CMS under Part C of title XVIII of the Act.

(b) A determination not to authorize a renewal of a contract with an MA organization in accordance with § 422.506(b).

(c) A determination to terminate a contract with an MA organization in accordance with § 422.510(a).

(d) A determination that an entity is not qualified to offer a Specialized MA Plan for Special Needs Individuals as defined in §§ 422.2 and 422.4(a)(1)(iv).

[63 FR 35113, June 26, 1998, as amended at 77 FR 22168, Apr. 12, 2012; 80 FR 7962, Feb. 12, 2015]

§ 422.644 Notice of contract determination.

(a) When CMS makes a contract determination under § 422.641, it gives the MA organization written notice.

(b) The notice specifies—

(1) Reasons for the determination; and

(2) The MA organization's right to request a hearing.

(c) *CMS-initiated terminations*—(1) *General rule.* Except as provided in paragraph (c)(2) of this section, CMS

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mails notice to the MA organization 45 calendar days before the anticipated effective date of the termination.

(2) *Exception.* If a contract is terminated in accordance with § 422.510(b)(2)(i) of this part, CMS notifies the MA organization of the date that it will terminate the MA organization's contract.

(d) When CMS determines that it will not authorize a contract renewal, CMS mails the notice to the MA organization by August 1 of the current contract year.

[63 FR 35113, June 26, 1998, as amended at 72 FR 68724, Dec. 5, 2007; 75 FR 19813, Apr. 15, 2010; 80 FR 7962, Feb. 12, 2015]

§ 422.646 Effect of contract determination.

The contract determination is final and binding unless a timely request for a hearing is filed under 422.662.

[72 FR 68724, Dec. 5, 2007]

§ 422.660 Right to a hearing, burden of proof, standard of proof, and standards of review.

(a) *Right to a hearing.* The following parties are entitled to a hearing:

(1) A contract applicant that has been determined to be unqualified to enter into a contract with CMS under Part C of Title XVIII of the Act in accordance with §§ 422.501 and 422.502.

(2) An MA organization whose contract has been terminated in accordance with § 422.510.

(3) An MA organization whose contract has not been renewed in accordance with § 422.506.

(4) An MA organization who has had an intermediate sanction imposed in accordance with § 422.752(a) through (b) of this part.

(5) An applicant that has been determined to be unqualified to offer a Specialized MA Plan for Special Needs Individuals.

(b) *Burden of proof, standard of proof, and standards of review at a hearing.* (1) During a hearing to review a contract determination as described at § 422.641(a) of this subpart, the applicant has the burden of proving by a preponderance of the evidence that CMS' determination was inconsistent with the requirements of §§ 422.501 and 422.502 of this part.