

(c) *Reinsurance.* CMS makes final payment for reinsurance after a coverage year after obtaining all of the information necessary to determine the amount of payment.

(1) *Submission of cost data.* Within 6 months of the end of a coverage year, the Part D sponsor must provide the information that CMS requires.

(2) *Payments.* CMS at its discretion either makes lump-sum payments or adjusts monthly payments throughout the remainder of the payment year following the coverage year based on the difference between monthly reinsurance payments made during the coverage year and the amount payable in § 423.329(c) for the coverage year. CMS may recover payments made through a lump sum recovery or by adjusting monthly payments throughout the remainder of the coverage year if the monthly reinsurance payments made during the coverage year exceed the amount payable under § 423.329(c) or if the Part D sponsor does not provide the data in paragraph (c)(1) of this section.

(d) *Low-income cost-sharing subsidy.* CMS makes final payment for low-income cost-sharing subsidies after a coverage year after obtaining all of the information necessary to determine the amount of payment.

(1) *Submission of cost data.* Within 6 months of the end of a coverage year, the Part D sponsor must provide the information that CMS requires.

(2) *Payments.* CMS at its discretion either makes lump-sum payments or adjusts monthly payments throughout the remainder of the payment year following the coverage year based on the difference between interim low-income cost-sharing subsidy payments and total low-income cost-sharing subsidy costs eligible for subsidy under § 423.782 submitted by the plan for the coverage year. CMS may recover payments made through a lump sum recovery or by adjusting monthly payments throughout the remainder of the coverage year if interim low-income cost-sharing subsidy payments exceed the amount payable under § 423.782 or if the Part D sponsor does not provide the data in paragraph (d)(1) of this section. In the event adequate data is not provided for risk corridor costs, CMS assumes that the Part D plan's adjusted allowable

risk corridor costs are 50 percent of the target amount.

§ 423.346 Reopening.

(a) CMS may conduct a global or targeted reopening to reopen and revise an initial or reconsidered final payment determination (including a determination on the final amount of direct subsidy described in § 423.329(a)(1), final reinsurance payments described in § 423.329(c), the final amount of the low income subsidy described in § 423.329(d), or final risk corridor payments as described in § 423.336) or the Coverage Gap Discount Reconciliation (as described at § 423.2320(b))—

(1) For any reason, within 12 months from the date of the notice of the final determination to the Part D sponsor

(2) After that 12-month period, but within 6 years after the date of the notice of the initial or reconsidered determination to the Part D sponsor, upon establishment of good cause for reopening; or

(3) At any time, in instances of fraud or similar fault of the Part D sponsor or any subcontractor of the Part D sponsor.

(b) For purposes of this section, CMS will find good cause if—

(1) New and material evidence that was not readily available at the time the final determination was made is furnished;

(2) A clerical error in the computation of payments was made; or

(3) The evidence that was considered in making the determination clearly shows on its face that an error was made.

(c) For purposes of this section, CMS will not find good cause if the only reason for reopening is a change of legal interpretation or administrative ruling upon which the final determination was made.

(d) A decision not to reopen under this section is final and is not subject to review.

(e) CMS notifies the sponsor(s) that will be included in the reopening of its intention to conduct a global or targeted reopening when it is necessary for the sponsor(s) to submit prescription drug event (PDE) data or direct and indirect remuneration (DIR) for

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the reopening. The notification to sponsor(s) must include the following:

(1) The date by which PDE or DIR data must be accepted by CMS to be included in the reopening, which is at least 90 calendar days after the date of the notification.

(2) A statement indicating the Part D contracts or types of contracts that are included in the reopening.

(f) CMS announces when it has completed a reopening and provide the sponsor(s) with all of the following information:

(1) A description of the data used in the reopening.

(2) A statement indicating the Part D contracts or types of contracts that were included in the reopening.

(3) The date by which reports describing the reopening results is available to the sponsor.

(4) The date by which a sponsor must submit an appeal, in accordance with § 423.350, if the sponsor disagrees with the reopening results.

(g) Inclusion criteria—

(1) For a global reopening, CMS includes only those Part D sponsor contracts that were in effect for the contract year being reopened and for whom CMS has not sent the “Notice of final settlement,” as described at § 423.521(a), as of the date CMS announces the completion of the reopening in accordance with paragraph (f) of this section.

(2) For a target reopening, CMS includes only Part D sponsor contracts that meet the criteria for inclusion in a global reopening as specified in paragraph (1) of this section and that CMS specifies for inclusion in the reopening as provided in paragraph (e)(2) or (f)(2) of this section.

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§ 423.350 Payment appeals.

(a) *Payment determinations*—(1) *Payment methods subject to appeal*. If CMS did not apply its stated payment methodology correctly, a Part D sponsor may appeal the following:

(i) The reconciled health status risk adjustment of the direct subsidy as provided in § 423.343(b).

(ii) The reconciled reinsurance payments under § 423.343(c).

(iii) The reconciled final payments made for low-income cost sharing subsidies provided in § 423.343(d).

(iv) Final risk-sharing payments made under § 423.336.

(v) The reconciled coverage gap discount payment under § 423.2320(b).

(2) *Payment information not subject to appeal*. Payment information submitted to CMS under § 423.322 and reconciled under § 423.343 or submitted and reconciled under § 423.2320(b) is final and may not be appealed nor may the appeals process be used to submit new information after the submission of information necessary to determine retroactive adjustments and reconciliations.

(b) *Request for reconsideration*—(1) *Time for filing a request*. The request for reconsideration must be filed within 15 days from the date of the final payment. For purposes of this paragraph, the date of final payment is one of the following:

(i) For risk adjustment, the date of the final reconciled payment under § 423.343(b) of this subpart.

(ii) For reinsurance, the date of the final reconciled payment under § 423.343(c) of this subpart; for low-income cost sharing subsidies, the date of the final reconciled payment under § 423.343(d) of this subpart.

(iii) For risk-sharing payments, the date of the final payments under § 423.336 of this subpart.

(iv) For the Coverage Gap Discount Program, the date of the final reconciled payment under § 423.2320(b).

(2) *Content of request*. The request for reconsideration must specify the findings or issues with which the Part D sponsor disagrees and the reasons for the disagreements. Excluding new payment information, the request for reconsideration may include additional documentary evidence the sponsor wishes CMS to consider.

(3) *Conduct of informal written reconsideration*. In conducting the reconsideration, CMS reviews the payment determination, the evidence and findings upon which it was based, and any other written evidence submitted by the Part D sponsor or by CMS before notice of