

§ 423.570

42 CFR Ch. IV (10–1–24 Edition)

enrollee's request to the IRE within 24 hours of the expiration of the adjudication timeframe.

(i) *Dismissing a request.* The Part D plan sponsor dismisses a coverage determination request, either entirely or as to any stated issue, under any of the following circumstances:

(1) When the individual making the request is not permitted to request a coverage determination under § 423.566(c).

(2) When the Part D plan sponsor determines the party failed to make out a valid request for a coverage determination that substantially complies with paragraph (a) of this section.

(3) When an enrollee or the enrollee's representative files a request for a coverage determination, 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) The enrollee's representative, if any, does not wish to pursue the request for coverage.

(4) When a party filing the coverage determination request submits a timely request for withdrawal of the request for a coverage determination with the Part D plan sponsor.

(j) *Notice of dismissal.* The Part D plan must mail or otherwise transmit a written notice of the dismissal of the coverage determination 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 Part D plan sponsor vacate the dismissal action.

(3) The right to request redetermination of the dismissal.

(k) *Vacating a dismissal.* If good cause is established, the Part D plan sponsor may vacate its dismissal of a request for coverage determination within 6 months from the date of the notice of dismissal.

(l) *Effect of dismissal.* The Part D plan sponsor's dismissal is binding unless it is modified or reversed by the Part D plan sponsor or vacated under paragraph (k) of this section.

(m) *Withdrawing a request.* A party that requests a coverage determination may withdraw its request at any time

before the decision is issued by filing a request with the Part D plan sponsor.

[75 FR 19823, Apr. 15, 2010, as amended at 76 FR 21576, Apr. 15, 2011; 84 FR 15843, Apr. 16, 2019; 86 FR 6119, Jan. 19, 2021; 86 FR 29528, June 2, 2021]

§ 423.570 Expediting certain coverage determinations.

(a) *Request for expedited determination.* An enrollee or an enrollee's prescribing physician or other prescriber may request that a Part D plan sponsor expedite a coverage determination involving issues described in § 423.566(b) of this part. This does not include requests for payment of Part D drugs already furnished.

(b) *How to make a request.* (1) To ask for an expedited determination, an enrollee or an enrollee's prescribing physician or other prescriber on behalf of the enrollee must submit an oral or written request directly to the Part D plan sponsor or, if applicable, to the entity responsible for making the determination, as directed by the Part D plan sponsor.

(2) A prescribing physician or other prescriber may provide oral or written support for an enrollee's request for an expedited determination.

(c) *How the Part D plan sponsor must process requests.* The Part D plan sponsor must establish and maintain the following procedures for processing requests for expedited determinations:

(1) An efficient and convenient means for accepting oral or written requests submitted by enrollees, prescribing physicians, or other prescribers.

(2) A method for documenting all oral requests and maintaining the documentation in the case file; and

(3) A means for issuing prompt decisions on expediting a determination, based on the following requirements:

(i) For a request made by an enrollee, provide an expedited determination if it determines that applying the standard timeframe for making a determination may seriously jeopardize the life or health of the enrollee or the enrollee's ability to regain maximum function.

(ii) For a request made or supported by an enrollee's prescribing physician or other prescriber, provide an expedited determination if the physician or

other prescriber indicates that applying the standard timeframe for making a determination may seriously jeopardize the life or health of the enrollee or the enrollee's ability to regain maximum function.

(d) *Actions following denial.* If a Part D plan sponsor denies a request for expedited determination, it must take the following actions:

(1) Make the determination within the 72-hour timeframe established in § 423.568(b) for a standard determination. The 72-hour period begins on the day the Part D plan sponsor receives the request for expedited determination. For an exceptions request, the Part D plan sponsor must notify the enrollee (and the prescribing physician or other prescriber involved, as appropriate) of its determination as expeditiously as the enrollee's health condition requires, but no later than 72 hours after receipt of the physician's or other prescriber's supporting statement. If a supporting statement is not received by the end of 14 calendar days from receipt of the exceptions request, the Part D plan sponsor must notify the enrollee (and the prescribing physician or other prescriber involved, as appropriate) of its determination as expeditiously as the enrollee's health condition requires, but no later than 72 hours from the end of 14 calendar days from receipt of the exceptions request.

(2) Give the enrollee and prescribing physician or other prescriber prompt oral notice of the denial that—

(i) Explains that the Part D plan sponsor must process the request using the 72 hour timeframe for standard determinations;

(ii) Informs the enrollee of the right to file an expedited grievance if he or she disagrees with the decision by the Part D plan sponsor not to expedite;

(iii) Informs the enrollee of the right to resubmit a request for an expedited determination with the prescribing physician's or other prescriber's support and

(iv) Provides instructions about the plan's grievance process and its timeframes.

(3) Subsequently deliver to the enrollee, within 3 calendar days, equivalent written notice.

(e) *Actions on accepted requests for expedited determination.* If a Part D plan sponsor grants a request for expedited determination, it must make the determination and give notice in accordance with § 423.572.

(f) *Dismissing a request.* The Part D plan sponsor dismisses an expedited coverage determination in accordance with § 423.568.

[70 FR 4525, Jan. 28, 2005, as amended at 73 FR 20507, Apr. 15, 2008; 74 FR 1546, Jan. 12, 2009; 75 FR 19823, Apr. 15, 2010; 84 FR 15843, Apr. 16, 2019; 86 FR 6120, Jan. 19, 2021]

§ 423.572 Timeframes and notice requirements for expedited coverage determinations.

(a) *Timeframe for determination and notification.* Except as provided in paragraph (b) of this section, a Part D plan sponsor that approves a request for expedited determination must make its determination and notify the enrollee (and the prescribing physician or other prescriber involved, as appropriate) of its decision, whether adverse or favorable, as expeditiously as the enrollee's health condition requires, but no later than 24 hours after receiving the request. For an exceptions request, the Part D plan sponsor must notify the enrollee (and the prescribing physician or other prescriber involved, as appropriate) of its determination as expeditiously as the enrollee's health condition requires, but no later than 24 hours after receipt of the physician's or other prescriber's supporting statement. If a supporting statement is not received by the end of 14 calendar days from receipt of the exceptions request, the Part D plan sponsor must notify the enrollee (and the prescribing physician or other prescriber involved, as appropriate) of its determination as expeditiously as the enrollee's health condition requires, but no later than 24 hours from the end of 14 calendar days from receipt of the exceptions request.

(b) *Confirmation of oral notice.* If the Part D plan sponsor first notifies an enrollee of an adverse or favorable expedited determination orally, it must mail written confirmation to the enrollee within 3 calendar days of the oral notification.

(c) *Content of the notice of expedited determination.* (1) If the determination