

§ 424.541

42 CFR Ch. IV (10–1–24 Edition)

(C) For the deactivation reason in paragraph (a)(6) of this section, the effective date is the date of death of the provider or supplier.

(D) For the deactivation reason in paragraph (a)(7) of this section, the effective date is the date on which the provider or supplier voluntarily withdrew from Medicare.

(E) For the deactivation reason in paragraph (a)(8) of this section, the effective date is the date of the sale.

(2) The effective date of a reactivation of billing privileges under this section is the date on which the Medicare contractor received the provider's or supplier's reactivation submission that was processed to approval by the Medicare contractor.

(e) *Payment prohibition.* A provider or supplier may not receive payment for services or items furnished while deactivated under this section.

[71 FR 20776, Apr. 21, 2006, as amended at 74 FR 58134, Nov. 10, 2009; 77 FR 29030, May 16, 2012; 84 FR 47856, Sept. 10, 2019; 86 FR 62420, Nov. 9, 2021; 88 FR 77878, Nov. 13, 2023]

§ 424.541 Stay of enrollment.

(a)(1) CMS may stay an enrolled provider's or supplier's enrollment if the provider or supplier:

(i) Is non-compliant with at least one enrollment requirement in Title 42; and

(ii) Can remedy the non-compliance via the submission of, as applicable to the situation, a Form CMS-855, Form CMS-20134, or Form CMS-588 change of information or revalidation application.

(2) During the period of any stay imposed under this section, the following apply:

(i) The provider or supplier remains enrolled in Medicare;

(ii)(A) Except as stated in paragraph (a)(2)(ii)(B) of this section, claims submitted by the provider or supplier with dates of service within the stay period will be rejected.

(B) Notwithstanding paragraph (a)(2)(ii)(A), claims submitted by the provider or supplier with dates of service within the stay period are eligible for payment (and may be resubmitted by the provider or supplier within applicable timeframes specified in Title 42) if:

(1) CMS or its contractor determines that the provider or supplier has resumed compliance with all Medicare enrollment requirements in Title 42; and

(2) The stay ends (as described in subsection (a)(5) of this section) on or before the 60th day of the stay period.

(3) A stay of enrollment lasts no longer than 60 days from the postmark date of the notification letter, which is the effective date of the stay.

(4) CMS notifies the affected provider or supplier in writing of the imposition of the stay.

(5) A stay of enrollment ends on the date on which CMS or its contractor determines that the provider or supplier has resumed compliance with all Medicare enrollment requirements in Title 42 or the day after the 60-day stay period expires, whichever occurs first.

(b)(1) If a provider or supplier receives written notice from CMS or its contractor that the provider or supplier is subject to a stay under this section, the provider or supplier has 15 calendar days from the date of the written notice to submit a rebuttal to the stay as described in paragraph (b) of this section.

(2) CMS may, at its discretion, extend the 15-day time-period referenced in paragraph (b)(1) of this section.

(3) Any rebuttal submitted pursuant to paragraph (b) of this section must:

(i) Be in writing.

(ii) Specify the facts or issues about which the provider or supplier disagrees with the stay's imposition and/or the effective date, and the reasons for disagreement.

(iii) Submit all documentation the provider or supplier wants CMS to consider in its review of the stay.

(iv) Be submitted in the form of a letter that is signed and dated by the individual supplier (if enrolled as an individual physician or nonphysician practitioner), the authorized official or delegated official (as those terms are defined in § 424.502), or a legal representative (as defined in 42 CFR 498.10). If the legal representative is an attorney, the attorney must include a statement that he or she has the authority to represent the provider or supplier; this statement is sufficient to constitute notice of such authority. If the legal

representative is not an attorney, the provider or supplier must file with CMS written notice of the appointment of a representative; this notice of appointment must be signed and dated by, as applicable, the individual supplier, the authorized official or delegated official, or a legal representative.

(4) The provider's or supplier's failure to submit a rebuttal that is both timely under paragraph (b)(1) of this section and fully compliant with all of the requirements of paragraph (b)(3) of this section constitutes a waiver of all rebuttal rights under this section.

(5) Upon receipt of a timely and compliant stay rebuttal, CMS reviews the rebuttal to determine whether the imposition of the stay and/or the effective date thereof are correct.

(6) A determination made under paragraph (b) of this section is not an initial determination under 42 CFR 498.3(b) and therefore not appealable.

(7) Nothing in paragraph (b) of this section requires CMS to delay the imposition of a stay pending the completion of the review described in paragraph (b)(5) of this section.

(8)(i) Nothing in paragraph (b) of this section requires CMS to delay the imposition of a deactivation or revocation, pending the completion of the review described in paragraph (b)(5) of this section.

(ii)(A) If CMS deactivates the provider or supplier during the stay, any rebuttal to the stay that the provider or supplier submits that meets the requirements of paragraph (b) of this section is combined and considered with the provider's or supplier's rebuttal to the deactivation under § 424.546 if CMS has not yet made a determination on the stay rebuttal pursuant to this section.

(B) In all cases other than that described in paragraph (b)(8)(ii)(A) of this section, a stay rebuttal that was submitted in compliance with the requirements of paragraph (b) of this section is considered separately and independently of any review of any other rebuttal or, for revocations, appeal under 42 CFR part 498.

[88 FR 79542, Nov. 16, 2023, as amended at 89 FR 9784, Feb. 12, 2024]

§ 424.542 Prohibition on ordering, certifying, referring, or prescribing based on felony conviction.

(a) *General prohibition.* A physician or other eligible professional (regardless of whether he or she is or was enrolled in Medicare) who has had a felony conviction within the previous 10 years that CMS determines is detrimental to the best interests of the Medicare program and its beneficiaries may not order, refer, certify, or prescribe Medicare-covered services, items, or drugs.

(b) *Payment.* Medicare does not pay for any otherwise covered service, item, or drug that is ordered, referred, certified, or prescribed by a physician or other eligible professional (as that term is defined in section 1848(k)(3)(B) of the Act) who has had a felony conviction within the previous 10 years that CMS determines is detrimental to the best interests of the Medicare program and its beneficiaries.

[88 FR 77878, Nov. 13, 2023]

§ 424.545 Provider and supplier appeal rights.

(a) *General.* A prospective provider or supplier that is denied enrollment in the Medicare program, or a provider or supplier whose Medicare enrollment has been revoked may appeal CMS' decision in accordance with part 498, subpart A of this chapter.

(1) *Appeals resulting in the termination of a provider agreement.* (i) When revocation of billing privileges also results in the termination of a corresponding provider agreement, the provider may appeal CMS' decision in accordance with part 498 of this chapter with the final decision of the appeal applying to both the billing privileges and the provider agreement.

(ii) When a provider appeals the revocation of billing privileges and the termination of its provider agreement, there will be one appeals process which will address both matters. The appeal procedures for revocation of Medicare billing privileges will apply.

(2) *Payment of unpaid claims.* Payment is not made during the appeals process. If the provider or supplier is successful in overturning a denial or revocation, unpaid claims for services furnished during the overturned period may be resubmitted.