

§417.610

and time frames set forth in §417.608(a)(1) could seriously jeopardize the life or health of the enrollee or the enrollee's ability to regain maximum function.

(c) The procedures must include the following:

(1) Receipt of oral requests, followed by written documentation of the oral requests.

(2) Prompt decision-making regarding whether the request will be expedited, or handled within the standard time frame set forth at §417.608(a)(1), including notification of the enrollee if the request is not expedited.

(3) Notification of the enrollee, and the physician as appropriate, as expeditiously as the enrollee's health condition requires, but within 72 hours of the request. An extension of up to 10 working days is permitted if requested by the enrollee or if the HMO or CMP finds that additional information is necessary and the delay is in the interest of the enrollee.

(i) Notification must comply with §417.608(b), concerning the content of a notice of adverse organization determination.

(ii) If the initial notification is not in writing, written confirmation must be mailed to the enrollee within 2 working days.

(iii) In cases for which the HMO or CMP must receive medical information from a physician or provider not affiliated with the HMO or CMP, the time standard begins with receipt of the information.

(4) Granting the request of a physician, regardless of whether the physician is affiliated with the organization or not, to expedite the enrollee's request.

[62 FR 23375, Apr. 30, 1997]

§417.610 Parties to the organization determination.

The parties to the organization determination are—

(a) The enrollee;

(b) An assignee of the enrollee (that is, a physician or other supplier who has provided a service to the enrollee and formally agrees to waive any right to payment from the enrollee for that service);

42 CFR Ch. IV (10–1–99 Edition)

(c) The legal representative of a deceased enrollee's estate; or

(d) Any other entity determined to have an appealable interest in the proceeding.

[50 FR 1346, Jan. 10, 1985, as amended at 59 FR 59942, Nov. 21, 1994]

§417.612 Effect of organization determination.

The organization determination is binding on all parties unless it is reconsidered in accordance with §§417.614 through 417.626, or revised in accordance with §417.638.

[50 FR 1346, Jan. 10, 1985, as amended at 59 FR 59941, Nov. 21, 1994; 62 FR 25855, May 12, 1997]

§417.614 Right to reconsideration.

Any party who is dissatisfied with an organization determination or with one that has been reopened and revised may request reconsideration of the determination in accordance with the procedures of §417.616, concerning a request for reconsideration, or §417.617, concerning certain expedited reconsiderations.

[62 FR 23375, Apr. 30, 1997]

§417.616 Request for reconsideration.

(a) *Method and place for filing a request.* A request for reconsideration must be made in writing and filed with—(1) The HMO or CMP that made the organization determination;

(2) An SSA office; or

(3) In the case of a qualified railroad retirement beneficiary, an RRB office.

(4) In the case of a request for an expedited reconsideration, as provided for in §417.617 (concerning certain expedited reconsiderations), the HMO or CMP.

(b) *Time for filing a request.* Except as provided in paragraph (c) of this section, the request for reconsideration must be filed within 60 days from the date of the notice of the organization determination.

(c) *Extension of time to file a request.* (1) *Rule.* If good cause is shown, the HMO or CMP that made the organization determination may extend the time for filing the request for reconsideration.

(2) *Method of requesting an extension.* If the time limit in paragraph (b) of this section has expired, a party to the organization determination may file a request for reconsideration with the HMO or CMP, HCFA, SSA, or, in the case of qualified railroad retirement beneficiary, and RRB office. The request to extend the time limit must—

- (i) Be in writing; and
- (ii) State why the request for reconsideration was not filed timely.

(d) *Parties to the reconsideration.* The parties to the reconsideration are the parties to the initial determination as described in § 417.610, and any other person or entity whose rights with respect to the initial determination may be affected by the reconsideration, as determined by the entity that conducts the reconsideration.

(e) *Withdrawal of request.* A request for reconsideration may be withdrawn by the party who filed the request. The request for withdrawal must be filed at one of the places specified in paragraph (c)(2) of this section.

[50 FR 1346, Jan. 10, 1985; 50 FR 20570, May 17, 1985, as amended at 59 FR 59942, Nov. 21, 1994; 62 FR 23375, Apr. 30, 1997]

§ 417.617 Expediting certain reconsiderations.

(a) An enrollee, or an authorized representative of the enrollee, may request that a reconsideration be expedited. The request may be made orally to the HMO or CMP.

(b) The HMO or CMP must maintain procedures for expediting reconsiderations when, upon request from an enrollee or an authorized representative of the enrollee, the organization decides that the longer time frames permitted in § 417.620(c) could seriously jeopardize the life or health of the enrollee or the enrollee's ability to regain maximum function.

(c) The procedures must comply with the requirements for reconsidered determinations set forth in §§ 417.614 through 417.626 and include the following items:

- (1) Receipt of oral requests, followed by written documentation of the oral requests.
- (2) Prompt decision-making regarding whether the request will be expedited or handled within the standard

time frame of § 417.620(c), including notification of the enrollee if the request is not expedited.

(3) Notification of the enrollee, and the physician as appropriate, as expeditiously as the enrollee's health condition requires, but within 72 hours of the request. An extension of up to 10 working days is permitted if requested by the enrollee or if the HMO or CMP finds that additional information is necessary and the delay is in the interest of the enrollee.

(i) Notification must comply with § 417.624(b), concerning the content of a notice of a reconsidered determination.

(ii) If the initial notification is not in writing, written confirmation must be mailed to the enrollee within 2 working days.

(iii) In cases for which the HMO or CMP must receive medical information from a physician or provider not affiliated with the HMO or CMP, the time standard begins with receipt of the information.

(4) Granting the request of a physician, regardless of whether the physician is affiliated with the organization or not, to expedite the request.

[62 FR 23375, Apr. 30, 1997]

§ 417.618 Opportunity to submit evidence.

The HMO or CMP must provide the parties to the reconsideration reasonable opportunity to present evidence and allegations of fact or law, related to the issue in dispute, in person as well as in writing. In the case of an expedited reconsideration, the opportunity to present evidence is limited by the short time frames for making decisions, and the organization must inform the enrollee, or the authorized representative of the enrollee, of the conditions for submitting the evidence.

[62 FR 23375, Apr. 30, 1997]

§ 417.620 Responsibility for reconsiderations; time limits.

(a) If the HMO or CMP can make a reconsidered determination that is completely favorable to the enrollee, the HMO or CMP issues the reconsidered determination.

(b) If the HMO or CMO recommends partial or complete affirmation of its