

(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(e) *Withdrawal of request.* A request for reconsideration may be withdrawn by the party who filed the request.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

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adverse determination, the HMO or CMP must prepare a written explanation and send the entire case to HCFA. HCFA makes the reconsidered determination.

(c) The HMO or CMP must issue the reconsidered determination to the enrollee, or submit the explanation and file to HCFA within 60 calendar days from the date of receipt of the request for reconsideration. In the case of an expedited reconsideration, the HMO or CMP must issue the reconsidered determination as specified in § 417.617(c)(3) or submit the explanation and file to HCFA within 24 hours of its determination, the expiration of the 72-hour review period, or the expiration of the extension.

(d) For good cause shown, HCFA may allow extensions to the time limit set forth in paragraph (c) of this section.

(e) Failure by the HMO or CMP to provide the enrollee with a reconsidered determination within the time limits described in paragraph (c) of this section or to obtain a good cause extension described in paragraph (d) of this section constitutes an adverse determination, and the HMO or CMP must submit the file to HCFA.

(f) If the HMO or CMP refers the matter to HCFA, it must concurrently notify the beneficiary of that action.

[59 FR 59942, Nov. 21, 1994, as amended at 62 FR 23376, Apr. 30, 1997]

§ 417.622 Reconsidered determination.

A reconsidered determination is a new determination that—

(a) Is based on a review of the organization determination, the evidence and findings upon which it was based, and any other evidence submitted by the parties or obtained by HCFA or the HMO or CMP; and

(b) Is made by a person or persons who were not involved in making the organization determination.

[50 FR 1346, Jan. 10, 1985, as amended at 59 FR 59941, 59942, Nov. 21, 1994]

§ 417.624 Notice of reconsidered determination.

(a) *Responsibility for notice.* The entity that makes the reconsidered determination is responsible for mailing no-

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tice to the parties and, if that entity is not HCFA, for sending a copy to HCFA.

(b) *Content of notice.* The notice must—

(1) State the specific reasons for the reconsidered determination;

(2) Inform the party of his or her right to a hearing if the amount in controversy is \$100 or more; and

(3) Describe the procedures that the party must follow to obtain a hearing.

[50 FR 1346, Jan. 10, 1985]

§ 417.626 Effect of reconsidered determination.

A reconsidered determination is binding on all parties unless a request for a hearing is filed in accordance with the provisions of § 417.632, or unless it is revised in accordance with § 417.638.

[50 FR 1346, Jan. 10, 1985, as amended at 62 FR 25855, May 12, 1997]

§ 417.630 Right to a hearing.

If the amount remaining in controversy is \$100 or more, any party to the reconsideration who is dissatisfied with the reconsidered determination has a right to a hearing. (The amount remaining in controversy, which can include any combination of Part A and Part B services, is computed in accordance with § 405.740 of this chapter for Part A services and § 405.820(b) of this chapter for Part B services. If the basis for the appeal is the refusal of services, the projected value of those services is used in computing the amount remaining in controversy.)

[59 FR 59942, Nov. 21, 1994]

§ 417.632 Request for hearing.

(a) *Method and place for filing a request.* A request for a hearing must be made in writing and filed at one of the places specified in § 417.616(a).

(b) *Time for filing a request.* Except when the time is extended by an ALJ as provided in 20 CFR 404.933(c), a request for a hearing must be filed within 60 days of the date of the notice of reconsidered determination.

(c) *Parties to a hearing.* (1) The parties to a hearing must be the parties to the reconsideration and any other person or entity whose rights with respect to the reconsideration may be affected by the hearing, as determined by the ALJ.