

§ 422.654 Reconsidered determination.

A reconsidered determination is a new determination that—

(a) Is based on a review of the contract determination, the evidence and findings upon which that was based, and any other written evidence submitted before notice of the reconsidered determination is mailed, including facts relating to the status of the M+C organization subsequent to the contract determination; and

(b) Affirms, reverses, or modifies the initial determination.

§ 422.656 Notice of reconsidered determination.

(a) HCFA gives the M+C organization or M+C contract applicant written notice of the reconsidered determination.

(b) The notice—

(1) Contains findings with respect to the M+C organization's qualifications to enter into or remain under a contract with HCFA pursuant to Part C of title XVIII of the Act;

(2) States the specific reasons for the reconsidered determination; and

(3) Informs the M+C organization or M+C contract applicant of its right to a hearing if it is dissatisfied with the determination.

§ 422.658 Effect of reconsidered determination.

A reconsidered determination is final and binding unless a request for a hearing is filed in accordance with § 422.662 or it is revised in accordance with § 422.696.

§ 422.660 Right to a hearing.

The following parties are entitled to a hearing:

(a) An applicant entity that has been determined in a reconsidered determination to be unqualified to enter into a contract with HCFA under Part C of the Act.

(b) An M+C organization whose contract with HCFA has been terminated or has not been renewed as a result of a contract determination as provided in § 422.641.

§ 422.662 Request for hearing.

(a) *Method and place for filing a request.* A request for a hearing must be made in writing and filed by an author-

ized official of the applicant entity or M+C organization that was the party to the determination under appeal. The request for a hearing must be filed with any HCFA office.

(b) *Time for filing a request.* A request for a hearing must be filed within 15 days after the date of the notice of contract or reconsidered determination.

(c) *Parties to a hearing.* The parties to a hearing must be—

(1) The parties described in § 422.660;

(2) At the discretion of the hearing officer, any interested parties who make a showing that their rights may be prejudiced by the decision to be rendered at the hearing; and

(3) HCFA.

§ 422.664 Postponement of effective date of a contract determination when a request for a hearing with respect to a contract determination is filed timely.

(a) HCFA postpones the proposed effective date of the contract determination to terminate a contract with an M+C organization until a hearing decision is reached and affirmed by the Administrator following review under § 422.692 in instances where an M+C organization requests review by the Administrator; and

(b) HCFA extends the current contract at the end of the contract period (in the case of a determination not to renew) only—

(1) If HCFA finds that an extension of the contract will be consistent with the purpose of this part; and

(2) For such period as HCFA and the M+C organization agree.

(c) Exception: A contract terminated in accordance with § 422.510(a)(5) will be immediately terminated and will not be postponed if a hearing is requested.

§ 422.666 Designation of hearing officer.

HCFA designates a hearing officer to conduct the hearing. The hearing officer need not be an ALJ.

§ 422.668 Disqualification of hearing officer.

(a) A hearing officer may not conduct a hearing in a case in which he or she is prejudiced or partial to any party or has any interest in the matter pending for decision.

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(b) A party to the hearing who objects to the designated hearing officer must notify that officer in writing at the earliest opportunity.

(c) The hearing officer must consider the objections, and may, at his or her discretion, either proceed with the hearing or withdraw.

(1) If the hearing officer withdraws, HCFA designates another hearing officer to conduct the hearing.

(2) If the hearing officer does not withdraw, the objecting party may, after the hearing, present objections and request that the officer's decision be revised or a new hearing be held before another hearing officer. The objections must be submitted in writing to HCFA.

§ 422.670 Time and place of hearing.

(a) The hearing officer fixes a time and place for the hearing, which is not to exceed 30 days from the receipt of the request for the hearing, and sends written notice to the parties. The notice also informs the parties of the general and specific issues to be resolved and information about the hearing procedure.

(b) The hearing officer may, on his or her own motion, or at the request of a party, change the time and place for the hearing. The hearing officer may adjourn or postpone the hearing.

(c) The hearing officer will give the parties reasonable notice of any change in time or place of hearing, or of adjournment or postponement.

§ 422.672 Appointment of representatives.

A party may appoint as its representative at the hearing anyone not disqualified or suspended from acting as a representative before the Secretary or otherwise prohibited by law.

§ 422.674 Authority of representatives.

(a) A representative appointed and qualified in accordance with § 422.672 may, on behalf of the represented party—

(1) Gives or accepts any notice or request pertinent to the proceedings set forth in this subpart;

(2) Presents evidence and allegations as to facts and law in any proceedings affecting that party; and

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(3) Obtains information to the same extent as the party.

(b) A notice or request sent to the representative has the same force and effect as if it had been sent to the party.

§ 422.676 Conduct of hearing.

(a) The hearing is open to the parties and to the public.

(b) The hearing officer inquires fully into all the matters at issue and receives in evidence the testimony of witnesses and any documents that are relevant and material.

(c) The hearing officer provides the parties an opportunity to enter any objection to the inclusion of any document.

(d) The hearing officer decides the order in which the evidence and the arguments of the parties are presented and the conduct of the hearing.

§ 422.678 Evidence.

The hearing officer rules on the admissibility of evidence and may admit evidence that would be inadmissible under rules applicable to court procedures.

§ 422.680 Witnesses.

(a) The hearing officer may examine the witnesses.

(b) The parties or their representatives are permitted to examine their witnesses and cross-examine witnesses of other parties.

§ 422.682 Discovery.

(a) Prehearing discovery is permitted upon timely request of a party.

(b) A request is timely if it is made before the beginning of the hearing.

(c) A reasonable time for inspection and reproduction of documents is provided by order of the hearing officer.

(d) The hearing officer's order on all discovery matters is final.

§ 422.684 Prehearing.

The hearing officer may schedule a prehearing conference if he or she believes that a conference would more clearly define the issues.

§ 422.686 Record of hearing.

(a) A complete record of the proceedings at the hearing is made and