

§ 473.44 Determining the amount in controversy for a hearing.

(a) After an individual appellant has submitted a request for a hearing, the ALJ determines the amount in controversy in accordance with § 405.740(a) of this chapter for Part A services or § 405.817(a) of this chapter for Part B services. When two or more appellants submit a request for hearing, the ALJ determines the amount in controversy in accordance with § 405.740(b) of this chapter for Part A services and § 405.817(b) of this chapter for Part B services.

(b) If the ALJ determines that the amount in controversy is less than \$200, the ALJ, without holding a hearing, notifies the parties to the hearing that the parties have 15 calendar days to submit additional evidence to prove that the amount in controversy is at least \$200.

(c) At the end of the 15-day period, if the ALJ determines that the amount in controversy is less than \$200, the ALJ, without holding a hearing, dismisses the request for a hearing without ruling on the substantive issues involved in the appeal and notifies the parties to the hearing and the PRO that the PRO reconsidered determination is conclusive for Medicare payment purposes.

[50 FR 15372, Apr. 17, 1985, as amended at 59 FR 12184, Mar. 16, 1994]

§ 473.46 Departmental Appeals Board and judicial review.

(a) The circumstances under which the DAB will review an ALJ hearing decision or dismissal are the same as those set forth at 20 CFR 404.970, (“Cases the Appeals Council will review”).

(b) If \$2,000 or more is in controversy, a party may obtain judicial review of an Departmental Appeals Board decision, or an ALJ hearing decision if a request for review by the Departmental Appeals Board was denied, by filing a civil action under the Federal Rules of Civil Procedure within 60 days after the date the party received notice of

the Departmental Appeals Board decision or denial.

[50 FR 15372, Apr. 17, 1985, as amended at 61 FR 32349, June 24, 1996; 62 FR 25855, May 12, 1997]

§ 473.48 Reopening and revision of a reconsidered determination or a hearing decision.

(a) *PRO reopenings*—(1) *General rule.* A PRO or PRO subcontractor that made a reconsidered determination, or conducted a review of a DRG change as described in § 473.15, that is otherwise binding, may reopen and revise the reconsidered determination or review, either on its own motion or at the request of a party, within one year from the date of the reconsidered determination or review.

(2) *Extension of time limit.* A PRO or PRO subcontractor may reopen and revise its reconsidered determination, or its review of a DRG change as described in § 473.15, that is otherwise binding, after one year but within four years of the date of the determination or review if—

(i) The PRO receives new material evidence;

(ii) The PRO erred in interpretation or application of Medicare coverage policy;

(iii) There is an error apparent on the face of the evidence upon which the reconsidered determination was based; or

(iv) There is a clerical error in the statement of the reconsidered determination.

(b) *ALJ and Departmental Appeals Board Reopening—Applicable procedures.* The ALJ or the Departmental Appeals Board, whichever made the decision, may reopen and revise the decision in accordance with the procedures set forth in § 405.750(b) of this chapter, which concerns reopenings and revisions under subpart G of part 405 of this chapter.

(c) *Fraud or similar abusive practice.* A reconsidered determination, a review of a DRG change, or a decision of an ALJ or the Departmental Appeals Board may be reopened and revised at