

§ 422.1016

estimated cost of preparing the transcript unless, for good cause shown by that party, the payment is waived by the ALJ or the Departmental Appeals Board, as appropriate.

§ 422.1016 Filing of briefs with the Administrative Law Judge or Departmental Appeals Board, and opportunity for rebuttal.

(a) *Filing of briefs and related documents.* If a party files a brief or related document such as a written argument, contention, suggested finding of fact, conclusion of law, or any other written statement, it must submit an original and 1 copy to the ALJ or the Departmental Appeals Board, as appropriate. The material may be filed by mail or in person and must include a statement certifying that a copy has been furnished to the other party.

(b) *Opportunity for rebuttal.* (1) The other party will have 20 days from the date of mailing or personal service to submit any rebuttal statement or additional evidence. If a party submits a rebuttal statement or additional evidence, it must file an original and 1 copy with the ALJ or the Board and furnish a copy to the other party.

(2) The ALJ or the Board will grant an opportunity to reply to the rebuttal statement only if the party shows good cause.

§ 422.1018 Notice and effect of initial determinations.

(a) *Notice of initial determination.* CMS, as required under 422.756(f)(2), mails notice of an initial determination to the affected party, setting forth the basis or reasons for the determination, the effect of the determination, and the party's right to a hearing, and information about where to file the request for hearing.

(b) *Effect of initial determination.* An initial determination is binding unless—

(1) The affected party requests a hearing; or

(2) CMS revises its decision.

§ 422.1020 Request for hearing.

(a) *Manner and timing of request.* (1) An MA organization is entitled to a hearing as specified in 422.1006 and may file a request for a hearing with the De-

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partmental Appeals Board office specified in the initial determination.

(2) The MA organization or its legal representative or other authorized official must file the request, in writing, to the appropriate Departmental Appeals Board office, with a copy to CMS, within 60 calendar days from receipt of the notice of initial determination, to request a hearing before an ALJ to appeal any determination by CMS to impose a civil money penalty.

(b) *Content of request for hearing.* The request for hearing must—

(1) Identify the specific issues, and the findings of fact and conclusions of law with which the affected party disagrees; and

(2) Specify the basis for each contention that the finding or conclusion of law is incorrect.

§ 422.1022 Parties to the hearing.

The parties to the hearing are the affected party and CMS, as appropriate.

§ 422.1024 Designation of hearing official.

(a) The Chair of the Departmental Appeals Board, or his or her delegate designates an ALJ or a member or members of the Departmental Appeals Board to conduct the hearing.

(b) If appropriate, the Chair or the delegate may substitute another ALJ or another member or other members of the Departmental Appeals Board to conduct the hearing.

(c) As used in this part, “ALJ” includes a member or members of the Departmental Appeals Board who are designated to conduct a hearing.

§ 422.1026 Disqualification of Administrative Law Judge.

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

(b) A party that objects to the ALJ designated to conduct the hearing must give notice of its objections at the earliest opportunity.

(c) The ALJ will consider the objections and decide whether to withdraw or proceed with the hearing.