

## § 422.592

(g) *Who must reconsider an adverse organization determination.* (1) A person or persons who were not involved in making the organization determination must conduct the reconsideration.

(2) When the issue is the MA organization's denial of coverage based on a lack of medical necessity (or any substantively equivalent term used to describe the concept of medical necessity), the reconsidered determination must be made by a physician with expertise in the field of medicine that is appropriate for the services at issue. The physician making the reconsidered determination need not, in all cases, be of the same specialty or subspecialty as the treating physician.

[63 FR 35107, June 26, 1998, as amended at 65 FR 40330, June 29, 2000; 70 FR 4739, Jan. 28, 2005]

## § 422.592 Reconsideration by an independent entity.

(a) When the MA organization affirms, in whole or in part, its adverse organization determination, the issues that remain in dispute must be reviewed and resolved by an independent, outside entity that contracts with CMS.

(b) The independent outside entity must conduct the review as expeditiously as the enrollee's health condition requires but must not exceed the deadlines specified in the contract.

(c) When the independent entity conducts a reconsideration, the parties to the reconsideration are the same parties listed in § 422.582(d) who qualified during the MA organization's reconsideration, with the addition of the MA organization.

## § 422.594 Notice of reconsidered determination by the independent entity.

(a) *Responsibility for the notice.* When the independent entity makes the reconsidered determination, it is responsible for mailing a notice of its reconsidered determination to the parties and for sending a copy to CMS.

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

(1) State the specific reasons for the entity's decisions in understandable language;

(2) If the reconsidered determination is adverse (that is, does not completely

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reverse the MA organization's adverse organization determination), inform the parties of their right to an ALJ hearing if the amount in controversy is \$100 or more;

(3) Describe the procedures that a party must follow to obtain an ALJ hearing; and

(4) Comply with any other requirements specified by CMS.

[63 FR 35107, June 26, 1998, as amended at 65 FR 40330, June 29, 2000]

## § 422.596 Effect of a reconsidered determination.

A reconsidered determination is final and binding on all parties unless a party other than the MA organization files a request for a hearing under the provisions of § 422.602, or unless the reconsidered determination is revised under § 422.616.

[65 FR 40331, June 29, 2000]

## § 422.600 Right to a hearing.

(a) If the amount remaining in controversy after reconsideration meets the threshold requirement established annually by the Secretary, any party to the reconsideration (except the MA organization) who is dissatisfied with the reconsidered determination has a right to a hearing before an ALJ.

(b) The amount remaining in controversy, which can include any combination of Part A and Part B services, is computed in accordance with part 405 of this chapter.

(c) If the basis for the appeal is the MA organization's refusal to provide services, CMS uses the projected value of those services to compute the amount remaining in controversy.

[63 FR 35107, June 26, 1998, as amended at 70 FR 4740, Jan. 28, 2005]

## § 422.602 Request for an ALJ hearing.

(a) *How and where to file a request.* A party must file a written request for a hearing with the entity specified in the IRE's reconsideration notice.

(b) *When to file a request.* Except when an ALJ extends the time frame as provided in part 405 of this chapter, a party must file a request for a hearing within 60 days of the date of the notice of a reconsidered determination. The time and place for a hearing before an