

§ 418.3610

20 CFR Ch. III (4-1-14 Edition)

§ 418.3610 Is there administrative or judicial review for administrative actions that are not initial determinations?

Administrative actions that are not initial determinations may be reviewed by us, but they are not subject to the administrative or judicial review process as provided by these sections. For example, changes in your prescription drug program or voluntary disenrollment in the Part D program are not initial determinations that are subject to the administrative review process.

§ 418.3615 Will we mail you a notice of the initial determination?

(a) We will mail a written notice of the initial determination to you at your last known address. Generally, we will not send a notice if your premium subsidy stops because of your death or if the initial determination is a redetermination that your eligibility for a subsidy and the amount of your subsidy has not changed.

(b) The written notice that we send will tell you:

- (1) What our initial determination is;
- (2) The reasons for our determination; and
- (3) The effect of our determination on your right to further review.

(c) We will mail you a written notice before increasing, reducing, or terminating your subsidy. The notice will tell you the first month that we plan to make the change and give you appeal rights. Your appeal rights for a reduction or termination will include the right to continue to receive your subsidy at the previously established level until there is a decision on your appeal request if your appeal is filed within 10 days after you receive our notice.

§ 418.3620 What is the effect of an initial determination?

An initial determination is binding unless you request an appeal within the time period stated in § 418.3630(a) or we revise it as provided in § 418.3678.

§ 418.3625 What is the process for administrative review?

The process for administrative review of initial determinations is either a hearing conducted by telephone or a

case review. We will provide you with a hearing by telephone when you appeal the initial determination made on your claim, unless you choose not to participate in a telephone hearing. If you choose not to participate in a telephone hearing, the review will consist of a case review. The hearing will be conducted by an individual who was not involved in making the initial determination. The individual who conducts the hearing will make the final decision after the hearing. If you are dissatisfied after we have made a final decision, you may file an action in Federal district court.

(a) *Notice scheduling the telephone hearing.* Once you request a telephone hearing, we will schedule the hearing and send you a notice of the date and time of the hearing at least 20 days before the hearing. The notice will contain a statement of the specific issues to be decided and tell you that you may designate a personal representative (as defined in 42 CFR 423.772) to represent you during the proceedings. The notice will explain the opportunity and procedure for reviewing your file and for submitting additional evidence prior to the hearing. It also will provide a brief explanation of the proceedings, of the right and process to subpoena witnesses and documents, of the procedures for requesting a change in the time or date of your hearing, and of the procedure for requesting interpreter services.

(b) *Opportunity to review your file.* Prior to the telephone hearing, you will be able to review the information that was used to make an initial determination in your case. You can provide us with additional information you wish to have considered at the hearing.

(c) *Hearing waived, rescheduled, or missed.* If you decide you do not want a hearing by telephone or if you are not available at the time of the scheduled hearing, the decision in your case will be made by a case review. This means that the decision will be based on the information in your file and any additional information you provide. You may ask for a change in the time and date of the telephone hearing; this should be done at the earliest possible opportunity prior to the hearing. Your request must state your reason(s) for