

§ 423.1012

(b) A notice or request may be sent to the affected party, to the party's representative, or to both. A notice or request sent to the representative has the same force and effect as if it had been sent to the party.

§ 423.1012 Fees for services of representatives.

Fees for any services performed on behalf of an affected party by an attorney appointed and qualified in accordance with 423.1008 are not subject to the provisions of section 206 of Title II of the Act, which authorizes the Secretary to specify or limit those fees.

§ 423.1014 Charge for transcripts.

A party that requests a transcript of prehearing or hearing proceedings or Board review must pay the actual or 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.

§ 423.1016 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 calendar days from the date of mailing or in person filing 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.

[72 FR 68736, Dec. 5, 2007, as amended at 79 FR 29966, May 23, 2014]

42 CFR Ch. IV (10–1–14 Edition)

§ 423.1018 Notice and effect of initial determinations.

(a) *Notice of initial determination*—(1) *General rule.* 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, the party's right to a hearing, and information about where to file the request for a 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.

§ 423.1020 Request for hearing.

(a) *Manner and timing of request.* (1) A Part D sponsor is entitled to a hearing as specified in 423.1006 and may file a request with the Departmental Appeals Board office specified in the initial determination.

(2) The Part D sponsor 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 after 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 a CMS finding or conclusion of law is incorrect.

[72 FR 68736, Dec. 5, 2007, as amended at 79 FR 29966, May 23, 2014]

§ 423.1022 Parties to the hearing.

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

§ 423.1024 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.