(2) If a contractor receives from multiple parties timely requests for redetermination of a claim determination, consistent with § 405.944(c), the contractor must issue a redetermination or dismissal within 60 days of the latest filed request.

(3) If a party submits additional evidence after the request for redetermination is filed, the contractor's 60-day decision-making time frame is extended for up to 14 calendar days for each submission, consistent with § 405.946(b).

[70 FR 11472, Mar. 8, 2005, as amended at 70 FR 37702, June 30, 2005]

§ 405.952 Withdrawal or dismissal of a request for a redetermination.

(a) *Withdrawing a request.* A party that files a request for redetermination may withdraw its request by filing a written and signed request for withdrawal. The request for withdrawal must contain a clear statement that the appellant is withdrawing the request for a redetermination and does not intend to proceed further with the appeal. The request must be received in the contractor's mailroom before a redetermination is issued. The appeal will proceed with respect to any other parties that have filed a timely request for redetermination.

(b) *Dismissing a request.* A contractor dismisses a redetermination request, either entirely or as to any stated issue, under any of the following circumstances:

(1) When the person or entity requesting a redetermination is not a proper party under § 405.906(b) or does not otherwise have a right to a redetermination under section 1869(a) of the Act;

(2) When the contractor determines the party failed to make out a valid request for redetermination that substantially complies with § 405.944;

(3) When the party fails to file the redetermination request within the proper filing time frame in accordance with § 405.942;

(4) When a beneficiary or the beneficiary's representative files a request for redetermination, but the beneficiary dies while the request is pending, and all of the following criteria apply:

(i) The beneficiary's surviving spouse or estate has no remaining financial interest in the case. In deciding this issue, the contractor considers if the surviving spouse or estate remains liable for the services for which payment was denied or a Medicare contractor held the beneficiary liable for subsequent similar services under the limitation of liability provisions based on the denial of payment for services at issue;

(ii) No other individual or entity with a financial interest in the case wishes to pursue the appeal; and

(iii) No other party filed a valid and timely redetermination request under § 405.942 and § 405.944;

(5) When a party filing the redetermination request submits a timely written request for withdrawal with the contractor; or

(6) When the contractor has not issued an initial determination on the claim or the matter for which a redetermination is sought.

(c) *Notice of dismissal.* A contractor mails or otherwise transmits a written notice of the dismissal of the redetermination request to the parties at their last known addresses. The notice states that there is a right to request that the contractor vacate the dismissal action.

(d) *Vacating a dismissal.* If good and sufficient cause is established, a contractor may vacate its dismissal of a request for redetermination within 6 months from the date of the notice of dismissal.

(e) *Effect of dismissal.* The dismissal of a request for redetermination is final and binding, unless it is modified or reversed by a QIC under § 405.974(b) or vacated under paragraph (d) of this section.

§ 405.954 Redetermination.

Upon the basis of the evidence of record, the contractor adjudicates the claim(s), and renders a redetermination affirming or reversing, in whole or in part, the initial determination in question.

§ 405.956 Notice of a redetermination.

(a) *Notification to parties.* (1) *General rule.* Written notice of a redetermination affirming, in whole or in part, the

initial determination must be mailed or otherwise transmitted to all parties at their last known addresses in accordance with the time frames established in § 405.950. Written notice of a redetermination fully reversing the initial determination must be mailed or otherwise transmitted to the appellant in accordance with the time frames established in § 405.950. If the redetermination results in issuance of supplemental payment to a provider or supplier, the Medicare contractor must also issue an electronic or paper RA notice to the provider or supplier.

(2) *Overpayment cases involving multiple beneficiaries who have no liability.* In an overpayment case involving multiple beneficiaries who have no liability, the contractor may issue a written notice only to the appellant.

(b) *Content of the notice for affirmations, in whole or in part.* For decisions that are affirmations, in whole or in part, of the initial determination, the redetermination must be written in a manner calculated to be understood by a beneficiary, and contain—

(1) A clear statement indicating the extent to which the redetermination is favorable or unfavorable;

(2) A summary of the facts, including, as appropriate, a summary of the clinical or scientific evidence used in making the redetermination;

(3) An explanation of how pertinent laws, regulations, coverage rules, and CMS policies apply to the facts of the case;

(4) A summary of the rationale for the redetermination in clear, understandable language;

(5) Notification to the parties of their right to a reconsideration and a description of the procedures that a party must follow in order to request a reconsideration, including the time frame within which a reconsideration must be requested;

(6) A statement of any specific missing documentation that must be submitted with a request for a reconsideration, if applicable;

(7) A statement that all evidence the appellant wishes to introduce during the claim appeals process should be submitted with the request for a reconsideration;

(8) Notification that evidence not submitted to the QIC as indicated in paragraph (b)(6) of this section, is not considered at an ALJ hearing or further appeal, unless the appellant demonstrates good cause as to why that evidence was not provided previously; and

(9) The procedures for obtaining additional information concerning the redetermination, such as specific provisions of the policy, manual, or regulation used in making the redetermination.

(10) Any other requirements specified by CMS.

(c) *Content of the notice for a full reversal.* For decisions that are full reversals of the initial determination, the redetermination must be in writing and contain—

(1) A clear statement indicating that the redetermination is wholly favorable;

(2) Any other requirements specified by CMS.

(d) *Exception for beneficiary appeal requests.* (1) The notice must inform beneficiary appellants that the requirements of paragraph (b)(8) of this section are not applicable for purposes of beneficiary appeals.

(2) This exception does not apply for appeal requests from beneficiaries who are represented by providers or suppliers.

§ 405.958 Effect of a redetermination.

In accordance with section 1869 (a)(3)(D) of the Act, once a redetermination is issued, it becomes part of the initial determination. The redetermination is final and binding upon all parties unless—

(a) A reconsideration is completed in accordance with § 405.960 through § 405.978; or

(b) The redetermination is revised as a result of a reopening in accordance with § 405.980.

RECONSIDERATION

§ 405.960 Right to a reconsideration.

A person or entity that is a party to a redetermination made by a contractor as described under § 405.940 through § 405.958, and is dissatisfied with that determination, may request