

§ 418.3505

include (but are not limited to) changes to:

- (1) Your income;
- (2) Your spouse's income if you are married and living with your spouse;
- (3) Your resources;
- (4) Your spouse's resources if you are married and living with your spouse; and
- (5) Your family size.

(b) We will periodically review your circumstances (as described in § 418.3125) to make sure you are still eligible for a subsidy and, if eligible, whether you should receive a full or partial subsidy.

(c) If you report that your circumstances have changed or we receive other notice of such a change after we determine that you are eligible, we will review your circumstances as described in § 418.3120 to determine if you are still eligible.

§ 418.3505 How would an increase, reduction or termination affect you?

(a) An *increase* in your subsidy means that you would be able to pay a lower premium to participate in the Medicare Part D prescription drug program. An increased subsidy may also result in a reduction in any deductible or copayments for which you are responsible.

(b) A *reduction* in your subsidy means that you would have to begin to pay a premium or a higher premium to participate in the Medicare Part D prescription drug program. You may also have to begin to pay a deductible and higher copayments or increase the amounts of these payments.

(c) A *termination* means that you would no longer be eligible for a subsidy under the Medicare Part D prescription drug program.

§ 418.3510 When would an increase, reduction or termination start?

We are required to give you a written notice of our proposed action before increasing, reducing, or terminating your subsidy. We will not give this advance notice where we have factual information confirming your death, such as through a report by your surviving spouse, a legal guardian, a close relative, or a landlord. The notice will tell you the first month that we plan to

20 CFR Ch. III (4-1-06 Edition)

make the change. The notice will also give you appeal rights which are explained in detail in §§ 418.3601 through 418.3670. 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. You will not be required to pay back any subsidy you received while your appeal was pending.

§ 418.3515 How could you qualify for a subsidy again?

Unless you subsequently qualify as a deemed eligible person (per 42 CFR 423.773(c)), you must file a new application for a subsidy and meet all the requirements in § 418.3101.

DETERMINATIONS AND THE ADMINISTRATIVE REVIEW PROCESS

§ 418.3601 When do you have the right to administrative review?

You have the right to an administrative review of the initial determination we make about your eligibility and about your continuing eligibility for a subsidy and any other matter that gives you the right to further review as discussed in § 418.3605. If you are married and living with your spouse and your spouse's eligibility for a subsidy may be adversely affected by our decision upon review, we will notify your spouse before our review and give him or her the opportunity to present additional information for us to consider.

§ 418.3605 What is an initial determination?

Initial determinations are the determinations we make that are subject to administrative and judicial review. The initial determination will state the relevant facts and will give the reasons for our conclusions. Examples of initial determinations that are subject to administrative and judicial review include but are not limited to:

- (a) The initial calculation of your income and/or resources;
- (b) The determination about whether or not you are eligible for a subsidy and if so, whether you receive a full or partial subsidy;

Social Security Administration

§ 418.3625

(c) The determination to reduce your subsidy; and

(d) The determination to terminate your subsidy.

§ 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