

CMS Manual System	Department of Health & Human Services (DHHS)
Pub 100-04 Medicare Claims Processing	Centers for Medicare & Medicaid Services (CMS)
Transmittal 2241	Date: June 17, 2011
	Change Request 7420

SUBJECT: Guidelines to allow contractors to develop and utilize procedures for accepting and processing reopenings via a secure Internet portal/application

I. SUMMARY OF CHANGES: This change request allows contractors to accept reopening requests via a secure Internet portal/application.

EFFECTIVE DATE: October 1, 2011

IMPLEMENTATION DATE: October 3, 2011

Disclaimer for manual changes only: The revision date and transmittal number apply only to red italicized material. Any other material was previously published and remains unchanged. However, if this revision contains a table of contents, you will receive the new/revised information only, and not the entire table of contents.

II. CHANGES IN MANUAL INSTRUCTIONS: (N/A if manual is not updated)

R=REVISED, N=NEW, D=DELETED-Only One Per Row.

R/N/D	CHAPTER / SECTION / SUBSECTION / TITLE
R	34/Table of Contents
R	34/10/Reopenings and Revisions of Claims Determinations and Decisions-General
R	34/10.1/Authority to Conduct a Reopening
R	34/10.6.4/Timeframes When a Party Requests an Adjudicator Reopen Their Decisions
R	34/10.7/Timeframes to Complete a Reopening Requested by a Party
R	34/10.8/Notice of a Revised Determination or Decision
N	34/10.13/System and Processing Requirements for Use of Secure Internet Portal/Application to Support Reopening Activities

III. FUNDING:

For Fiscal Intermediaries (FIs), Regional Home Health Intermediaries (RHHIs) and/or Carriers:
No additional funding will be provided by CMS; Contractor activities are to be carried out within their operating budgets.

For Medicare Administrative Contractors (MACs):

The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to

be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

IV. ATTACHMENTS:

Business Requirements

Manual Instruction

**Unless otherwise specified, the effective date is the date of service.*

Attachment - Business Requirements

Pub. 100-04	Transmittal: 2241	Date: June 17, 2011	Change Request: 7420
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SUBJECT: Guidelines to Allow Contractors to Develop and Utilize Procedures for Accepting and Processing Reopenings via a Secure Internet Portal/Application

Effective Date: October 1, 2011

Implementation Date: October 3, 2011

I. GENERAL INFORMATION

A. Background: Several contractors have requested authority to utilize a secure Internet portal/application to receive and process reopenings of Medicare fee-for-service (FFS) claims. The purpose of this change request is to update the current instructions in the Medicare Claims Processing Manual (IOM 100-04); Chapter 34, to allow contractors to accept claimant initiated reopening requests via a secure Internet portal/application.

B. Policy: This CR provides guidance to contractors who wish to receive and/or process claim appeals related reopening requests via a secure Internet portal/application. At this time, Contractors are not required to accept reopenings via secure Internet portal/application. This is a discretionary activity and no additional funding shall be provided to support process modifications. Contractors wishing to utilize a secure Internet portal/application must seek approval from CMS prior to implementation of said portal/application.

II. BUSINESS REQUIREMENTS TABLE

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A / B M A C	D M M A C	F I I E R	C A R I E R	R H H I	Shared-System Maintainers				OTH ER
					F I S S	M C S	V M S	C W F			
7420.1	Contractors utilizing a secure Internet portal/application shall include, at a minimum, a formal registration process that includes validation of the electronic signature on the reopening request.	X	X	X	X	X					
7420.2	Contractors shall include an indication and/or description of the validation methodology in the appeals case file should a redetermination and/or higher level of appeal be submitted following an adverse reopening decision.	X	X	X	X	X					
7420.3	Contractors utilizing a secure Internet portal/application shall include, at a minimum, use of restricted user identifiers (IDs) and passwords and a method for authenticating that the party has completed the portal registration process.	X	X	X	X	X					

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A / B	D M E	F I	C A R R I E R	R H I	Shared-System Maintainers				OTH ER
							F I S S	M C S	V M S	C W F	
7420.4	Contractors utilizing a secure Internet portal/application for reopening activities shall seek and receive CMS approval (i.e., Project Officer/Contract Manager and Appeals Business Function Lead) prior to implementation.	X	X	X	X	X					
7420.5	Contractors shall ensure that secure Internet portal/applications developed for reopening activities comply with all CMS security requirements regarding protected health information prior to implementation.	X	X	X	X	X					
7420.6	Contractors shall not require a party to file a reopening via a secure Internet portal/application.	X	X	X	X	X					
7420.7	Contractors utilizing an approved portal shall provide adequate education regarding system capabilities/limitations prior to implementation and utilization of the secure portal.	X	X	X	X	X					
7420.8	For reopening purposes only, contractors utilizing a secure portal/application shall include a date, timestamp, and statement regarding the responsibility and authorship related to the electronic, digital, and/or digitized signature within the record. At a minimum, this shall include a statement indicating that the document was, "electronically signed by" or "verified/approved by" etc.	X	X	X	X	X					
7420.9	Contractors utilizing a secure Internet portal/application shall ensure adhere to security standards in the Health Insurance and Portability and Accountability Act (HIPAA).	X	X	X	X	X					
7420.10	Contractors utilizing a secure Internet portal/application shall educate parties that participation/enrollment in the secure portal/application is the discretion of the party and that the party bears the responsibility for the authenticity of the information being attested to.	X	X	X	X	X					
7420.11	Contractors that receive a valid request for redetermination that decide to process the redetermination request as clerical error or non-clerical error reopening shall not issue a refusal to reopen notice, if a contractor later determines that a reopening cannot be performed. Rather, the contractor shall process the request as a valid/timely redetermination (as originally requested by the party) in accordance with Pub. 100-04, Chapter 29.	X	X	X	X	X					

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A / B M A C	D M E M A C	F I M I E R	C A R R I E R	R H I S S	Shared-System Maintainers				OTH ER
							F I S S	M C S	V M S	C W F	
7420.12	Contractors utilizing a secure Internet portal/application to accept reopening requests shall ensure that appropriate procedures are in place to provide parties to the reopening with confirmation of receipt of the reopening request and verbiage instructing the party not to submit additional reopening requests for the same item/service via different venue (i.e., telephone, in writing, etc.).	X	X	X	X	X					
7420.13	Contractors that have received CMS approval for use of a secure Internet portal/application shall provide mailed copies of any decisions to refuse to reopen or, as approved by CMS, may provide an electronic copy via the secure Internet portal/application.	X	X	X	X	X					
7420.14	Contractors that have received CMS approval for use of a secure Internet portal/application shall provide mailed copies of an adverse revised determination or decision letter (see 42 CFR 405.982(a)), or as approved by CMS, may provide an electronic copy of the decision via the secure Internet portal/application.	X	X	X	X	X					
7420.15	Decisions processed via a CMS approved secure Internet portal/application shall be considered complete on the date the electronic reopening decision notice is transmitted to the party through the secure Internet portal/application.	X	X	X	X	X					
7420.16	Contractors utilizing a secure portal/application shall ensure that there is a process in place by which a party can submit additional documentation/materials concurrent with the reopening request submitted via secure application/portal.	X	X	X	X	X					
7420.17	Contractors utilizing a secure portal/application shall ensure the portal/application has the capability to accept additional documentation and/or other materials to support the reopening request.	X	X	X	X	X					
7420.18	Contractors utilizing a secure Internet portal/application shall ensure that parties may save and print the refusal to reopen notice and adverse revised determination/decision notice. The portal shall also include a mechanism by which the date/time of the notification is tracked/marked so as to adequately inform the party of the timeframes for ensuring timely submission of future appeal requests for the item/service at issue, if applicable.	X	X	X	X	X					

Number	Requirement	Responsibility (place an "X" in each applicable column)								
		A / B M A C	D M E M A C	F I M A C	C A R I E R	R H I S S	Shared-System Maintainers			
						F I S S	M C S	V M S	C W F	
7420.19	Contractors utilizing a secure portal/application shall also provide mailed copies of the adverse revised determination/decision notice to beneficiaries and/or other parties to the reopening request that do not have access to/utilize the secure portal/application.	X	X	X	X	X				
7420.20	Contractors utilizing a secure portal/application shall ensure that the date of the mailed adverse revised determination/decision notice is the same date that the Contractor transmits the decision notice to the provider and/or other party utilizing the secure portal/application.	X	X	X	X	X				
7420.21	Contractors utilizing a secure Internet portal/application shall include the adverse revised determination/decision notice and any other related materials in the appeals case file if a valid appeal on the item/service is later requested.	X	X	X	X	X				
7420.22	Contractors shall issue a refusal to reopen or decision via a secure Internet portal/application only if the party has submitted the request for reopening through that application.	X	X	X	X	X				
7420.23	Contractors shall ensure that a refusal to reopen or adverse revised determination/decision notice issued through a secure Internet portal/application complies with all of the requirements as outlined in Pub 100-04, Chapter 34.	X	X	X	X	X				

III. PROVIDER EDUCATION TABLE

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A / B M A C	D M E M A C	F I I E R	C A R I E R	R H I I E R	Shared-System Maintainers				OTH ER
						F I S S	M C S	V M S	C W F		
7420.24	<p>A provider education article related to this instruction will be available at http://www.cms.hhs.gov/MLNMattersArticles/ shortly after the CR is released. You will receive notification of the article release via the established "MLN Matters" listserv.</p> <p>Contractors shall post this article, or a direct link to this article, on their Web site and include information about it in a listserv message within one week of the availability of the provider education article. In addition, the provider education article shall be included in your next regularly scheduled bulletin. Contractors are free to supplement MLN Matters articles with localized information that would benefit their provider community in billing and administering the Medicare program correctly.</p>	X	X	X	X	X					

IV. SUPPORTING INFORMATION

Section A: For any recommendations and supporting information associated with listed requirements, use the box below:

X-Ref Requirement Number	Recommendations or other supporting information:
	None.

Section B: N/A

V. CONTACTS

Pre-Implementation Contact: Kathleen McCracken (Kathleen.McCracken@cms.hhs.gov) or 410-786-7487.

Post-Implementation Contacts:

Contact your Contracting Officer's Technical Representative (COTR) or Contractor Manager, as applicable.

VI. FUNDING

Section A: For Fiscal Intermediaries (FIs), Regional Home Health Intermediaries (RHHIs), and/or Carriers, use only one of the following statements:

No additional funding will be provided by CMS; contractor activities are to be carried out within their operating budgets.

Section B: For Medicare Administrative Contractors (MACs), include the following statement:

The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the party or parts in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

Medicare Claims Processing Manual

Chapter 34 - Reopening and Revision of Claim Determinations and Decisions

(Rev. 2241, 06-17-11)

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Transmittals for Chapter 34

10.6 - Timeframes to Reopen Claim Determinations

10.6.4 - Timeframes When *a* Party Requests an Adjudicator Reopen Their Decision

10.13 – System and Processing Requirements for Use of Secure Internet Portal/Application to Support Reopening Activities

10 - Reopenings and Revisions of Claims Determinations and Decisions - General

(Rev. 2241; Issued: 06-17-11, Effective: 10-01-11, Implementation: 10-03-11)

A reopening is a remedial action taken to change a final determination or decision that resulted in either an overpayment or an underpayment, even though the determination or decision was correct based on the evidence of record. Reopenings are separate and distinct from the appeals process. Reopenings are a discretionary action on the part of the contractor. A contractor's decision to reopen a claim determination is not an initial determination and is therefore not appealable. Requesting a reopening does not toll the timeframe to request an appeal. If the reopening action results in a revised adverse determination, then new appeal rights would be offered on that revised determination. Under certain circumstances a party may request a reopening even if the timeframe to request an appeal has not expired.

Historically, contractors have employed a variety of informal procedures under the general heading of "reopenings," "re-reviews," "informal redeterminations," etc.

Providers, physicians and suppliers may have come to view these as appeal rights. However, as stated above, reopenings are separate and distinct from the appeals process. They are not a party's right. Contractors shall not use them to provide an appeal when a formal appeal is not available. Contractors should also note that while clerical errors must be processed as reopenings, all decisions on granting reopenings are at the discretion of the contractor.

Contractors may conduct a reopening to revise an initial determination or redetermination. *Medicare Secondary Payer (MSP)* recovery claims where the debtor is the beneficiary or provider/supplier are not reopening actions except where the recovery claim is a MSP provider/supplier recovery claim because the provider/supplier failed to file a proper claim as defined in 42 CFR Part 411. Aside from this one exception, MSP recovery claims involve recovery of the insurance funds at issue, not recovery of the payment previously made by Medicare. Consequently, the recovery action does not involve the reopening of Medicare's payment determination. The MSP recovery demand letter is an "initial determination" as defined in 42 CFR 405.924, not a reopening and revision of Medicare's initial claims payment determination.

10.1 - Authority to Conduct a Reopening

(Rev. 2241; Issued: 06-17-11, Effective: 10-01-11, Implementation: 10-03-11)

Reopenings can be conducted by a contractor to revise an initial determination, revised initial determination or redetermination; a Qualified Independent Contractor (QIC) to revise a reconsideration; an Administrative Law Judge (ALJ) to revise a hearing decision, and the Appeals Council (AC) to revise an ALJ decision or their own review decision.

Reopenings are generally not conducted until a party's appeal rights have been exhausted or the timeframe to file a request for an appeal has expired. There are two exceptions that

allow a reopening to be conducted when appeal rights have not been exhausted or the timeframe to request an appeal has not expired. These exceptions are:

- Cases where Medical Review (MR) requested documentation, did not receive it, and issued a denial based on no documentation (i.e., N102 or 56900). Subsequently, if the party requests an appeal and submits the requested documentation with that appeal, it shall be treated as a reopening; and
- Clerical errors (which includes minor errors and omissions) shall be treated as reopenings.

If a contractor receives a valid and timely request for redetermination and begins processing the request as a reopening (clerical error or otherwise) and later determines that a reopening cannot be performed, or the determination cannot be changed, the contractor shall not issue a refusal to reopen notice. Rather, the contractor shall process the request as a valid/timely redetermination (as originally requested by the party) in accordance with Pub. 100-04, Chapter 29.

If a party has filed a valid request for an appeal, the adjudicator at the lower levels of the appeals process loses jurisdiction to reopen the claim on the issues in question. For example, a party simultaneously requests a QIC reconsideration and a reopening with the contractor. The contractor can no longer reopen that redetermination decision now that the party has filed a valid request for QIC reconsideration. This does not preclude contractors from accepting and processing remands from the QIC.

As stated previously, it is within the contractor's discretion to accept reopening requests, but once accepted, they must be processed in accordance with the above instruction.

10.6.4 - Timeframes When a Party Requests an Adjudicator Reopen Their Decisions

(Rev. 2241; Issued: 06-17-11, Effective: 10-01-11, Implementation: 10-03-11)

A party may request a QIC, ALJ or the AC reopen and revise its reconsideration, hearing decision or review within 180 days from the date of the reconsideration, hearing decision or review, as applicable, for good cause in accordance with 42 CFR §405.986.

10.7 - Timeframes to Complete a Reopening Requested by a Party

(Rev. 2241; Issued: 06-17-11, Effective: 10-01-11, Implementation: 10-03-11)

There are no timeframes established in statute or regulation governing the timeframes for a contractor to complete a reopening action. However, a party to an initial determination has a reasonable expectation to the administrative finality of a determination issued by Medicare. Therefore, this section sets out timeframes to complete the reopening action once the reopening has been initiated. These timeframes apply only to those reopening requests that are requested by the party to the initial determination. These timeframes do not apply to contractor initiated reopenings.

For those reopenings requested by a party that the contractor agrees to reopen, the contractor shall complete the reopening action 60 days from the date of receipt of the party's reopening request in the corporate mailroom, *receipt in a secure Internet portal/application*, or receipt of the telephone request. This does not apply to "big box cases" defined *as aggregated requests filed by a provider, physician, or other supplier that involve 40 or more beneficiaries/claims and \$40,000 or more in controversy.*

10.8 - Notice of a Revised Determination or Decision

(Rev. 2241; Issued: 06-17-11, Effective: 10-01-11, Implementation: 10-03-11)

If the reopening action results in a revised determination or decision that results in payment to a provider, physician, or supplier, a revised electronic or paper remittance advice notice must be issued by the Medicare contractor and will satisfy the notice requirements. If applicable, a revised Medicare Summary Notice will suffice for notice to the beneficiary in the above instances. If the reopening action results in an adverse revised determination or decision the contractor shall mail, *or if approved by CMS, transmit via a secure Internet portal/application* a letter that states the rationale and basis for the reopening and revision and any right to appeal. The timeframe to request the appeal would be based on the date of the contractor's revised determination. If the contractor cannot change the original determination or chooses to not accept the request, the contractor should inform the requestor that the contractor cannot process their reopening request. If the request is over the telephone, the contractor can verbally inform the caller that they cannot process their request. If it is a written reopening request *submitted via hard copy or a secure Internet portal/application*, the contractor *shall* send a brief letter *via mail or, if approved by CMS, a secure Internet portal/application*, informing the requestor that they cannot process the request. The contractor should state that their decision to not reopen a claim determination is not an initial determination and is therefore not appealable.

10.13 – System and Processing Requirements for Use of Secure Internet Portal/Application to Support Reopening Activities

(Rev. 2241; Issued: 06-17-11, Effective: 10-01-11, Implementation: 10-03-11)

Contractors who develop and utilize a secure Internet portal/application for reopening purposes shall ensure, at a minimum:

- *CMS approves (i.e., Contract Manager or Project Officer, if applicable, and Appeals Business Function Lead) the proposed portal/application and usage prior to development and implementation.*
- *The portal/application fully complies and has been tested to ensure compliance with all CMS system security requirements regarding protected health information prior to implementation/usage.*

- *The secure Internet portal/application includes a formal registration process that validates the signature. This process shall include, at a minimum, use of restricted user identifiers (IDs) and passwords. Contractors shall include an indication and/or description of the validation methodology in the appeals case file should an appeal on the item/service reopened be requested.*
- *Templates for submission of electronic reopening request shall include, at a minimum, a method for authenticating that the party has completed the portal/application registration process and has been properly identified by the system as an appropriate user.*
- *Contractors utilizing an approved portal/application shall provide education to parties to the reopening regarding system capabilities/limitations prior to implementation and utilization of the secure portal/application.*
- *Contractors shall also educate parties to the reopening that participation/enrollment in the secure portal/application is at the discretion of the party and the party bears the responsibility for the authenticity of the information being attested to.*
- *Appropriate procedures are in place to provide parties with confirmation of receipt of the reopening request via secure Internet/portal and verbiage instructing the parties not to submit additional reopening requests for the same item or service via different venue (hard copy mail or telephone).*
- *Contractors utilizing a secure portal/application shall ensure that there is a process in place by which a party can submit additional documentation/materials concurrent with the reopening request. The portal/application shall have the capability to accept additional documentation and/or other materials to support reopening requests.*
- *Refusal to reopen and adverse revised determination notices transmitted via a secure Internet portal/application shall comply with the timeliness and content requirements as outlined in the Pub. 100-04, chapter 34. In addition, contractors shall provide hard copy decision notices to parties to the reopening, as required, who do not have access to the secure Internet portal/application. The notices must be mailed and/or otherwise transmitted concurrently (i.e., mailed on the same day the notice is transmitted via the secure portal/application).*
- *Contractors utilizing a secure Internet portal/application shall include the adverse revised determination/decision notice and any other related materials in the appeals case file if a valid appeal on the item/service is later requested.*
- *Contractors shall also ensure that parties may save and print the revised adverse determination/decision notice or refusal to reopen notice and that the secure portal/application includes a mechanism by which the date/time of the notification is*

tracked/marked both in the system and on any printed decision notices so as to adequately inform the party of timeframes for ensuring timely submission of future appeal requests.