

## REQUEST TO VACATE DISMISSAL OF MEMBER APPEAL BY MEDICARE HEALTH PLAN

### TO

Maximus, CMS Independent Review Entity (IRE)

Medicare Health Plan:

Maximus Fax Number: 1-585-425-5292

# Pages:

### FROM

Physician: <insert name, MD> NPI#

Correspondence Address:

Return Fax:

Return Phone:

Date(s) of Service:

Enrollee Name:

Member Number:

- Attachments:
- Copy of Notice of Dismissal of Appeal Request
  - Medicare Health Plan dismissed member appeal without Notice of Dismissal
  - Copy of member appeal and improper payor response attached
  - Other:

### TYPE OF RECONSIDERATION DISMISSED BY THE MEDICARE HEALTH PLAN

- Expedited member reconsideration, filed on behalf of member by physician or physician staff
- Expedited member reconsideration, unassisted
- Standard pre-service member reconsideration

### AUTHORITY TO REQUEST APPEAL OF DISMISSAL [§ 422.590(i)]

- The undersigned provider has party status under 42 CFR §§ 422.574, 422.578.

### REASON FOR APPEAL OF DISMISSAL

There are limited circumstances permitted in the federal regulations that permit dismissal of a reconsideration request [§ 422.582(f)-(i)], none of which are applicable here:

- Lack of party status to file the reconsideration
- Untimely filing of appeal
- Death of the member, and no other party with remaining financial interest in the appeal
- Party filing reconsideration requests withdrawal of reconsideration

Please note that Chapter 50.8 of CMS' Parts C&D Appeals Guidance document (updated 8/3/2022), titled "Service or Benefit Received Prior to Notice of Decision" does not allow dismissal of a member pre-service reconsideration merely because the service was received by the time the plan completes its reconsideration. In that case, the plan must process the request as a payment request. If the plan does not have the necessary information to process a payment request, it must attempt to obtain that information. If unable, the plan can dismiss the payment request with an explanation of what is needed

to process the payment request. If the payment request is denied, the plan must send the case to the IRE. Section 40.4 further states:

“MA plans may not interfere with an enrollee’s right to receive a requested initial determination or obstruct the enrollee’s access to the appeal process by any means.”

We ask that you vacate the Medicare Health Plan’s inappropriate dismissal/rejection of the member’s reconsideration request to allow a decision on the merits of the request. Thank you.

\_\_\_\_\_ <insert name>, MD \_\_\_\_\_ Date

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