

Part D plan(s) of the final LEP reconsideration decision.

8.0 POST-RECONSIDERATION DETERMINATION PROCESSING FOR DRUG APPEALS

A number of processes may be invoked after the Part D QIC issues its reconsideration determination notice for a drug appeal. This Chapter provides useful information on these various post determination processes. The topics addressed are:

- 8.1 The Part D QIC Monitoring of Part D Plan Compliance with Determinations that have been Reversed on Appeal (Favorable and Partially Favorable)
- 8.2 The Part D QIC Reopening Process for Drug and LEP Appeals
- 8.3 Administrative Law Judge Process
- 8.4 Medicare Appeals Council Process

8.1 THE PART D QIC MONITORING OF PART D PLAN COMPLIANCE WITH DETERMINATIONS THAT HAVE BEEN REVERSED ON APPEAL (FAVORABLE AND PARTIALLY FAVORABLE)

Compliance ("effectuation") is defined as the Part D plan's payment of a claim, or authorization and arrangement for a drug benefit, as instructed in the Part D QIC Reconsideration determination notice. For a complete discussion regarding effectuating redeterminations or decisions, the Part D plan should refer to section 90 of the CMS Parts C & D Enrollee Grievances, Organization/Coverage Determinations, and Appeals Guidance. Part D Plan effectuation timeframes.

8.1.1 Part D Plan effectuation timeframes

The following table summarizes CMS requirements for timeliness of Part D plan effectuation for plan determinations that are reversed in whole or in part by the Part D QIC, ALJ or Council:

APPEAL TYPE	TIME REQUIREMENT	REFERENCE
Standard Requests for Benefits	Authorize or provide within 72 hours from the date of receipt of the notice reversing the plan determination.	42 C.F.R. §423.636(b)(1)
Expedited Requests for Benefits	Authorize or provide the benefit in dispute as expeditiously as enrollee's health condition requires, but no later than 24 hours from the date it receives notice reversing the determination.	42 C.F.R. §423.638(b)

regulations, and coverage guidelines, or as otherwise instructed by CMS. The Part D QIC, in conjunction with CMS, will determine if there are grounds for Council own motion referral, and as directed by CMS, may prepare a referral memorandum requesting Council Own Motion Review. While the process established by 42 C.F.R. §423.2110 does not permit a Part D plan to refer a Part D case to the Council for own motion review, plans have the opportunity to communicate with the Part D QIC about cases that may warrant such a referral. Any such communications should be directed to the Part D QIC's legal counsel (or other designated staff).

Pursuant to 42 C.F.R. §423.2110(b), the Part D QIC may refer a case to the Council for consideration under the Council's own motion authority, if the referral is made within 60 calendar days after the Part D QIC's receipt of the OMHA decision or dismissal. The Part D QIC will send a notification of the referral to both the enrollee (and representative if applicable) and to the Part D plan. The Part D QIC will also send a "Notice to Comply with the ALJ Decision Pending Outcome of Referral to the Medicare Appeals Council" to the Part D Plan, along with a copy of the OMHA decision, advising that the plan is required to effectuate the OMHA decision pending the Part D QIC's referral of the decision to the Council for own motion review.

The Part D Plan will receive notification of the Council's decision on the referral directly from Council. If the Council decision requires effectuation by the Part D Plan, the Part D QIC will effectuate the Council decision to the Part D Plan pursuant to section 8.4.3.

8.4.3 Medicare Appeals Council Decisions

Council Effectuation:

CMS requires the Part D QIC to monitor the Part D plan's compliance with Council decisions that fully or partially reverse an OMHA adverse coverage determination. The Council effectuation process is as follows:

1. Within 2 business days of receipt of Council decisions that overturn, in whole or in part, the OMHA decision, the Part D QIC provides the plan with 1) an effectuation notice and 2) a copy of the Council decision by fax.
2. The Part D plan is required to submit to the Part D QIC a statement attesting to compliance (effectuation) with the decision by Council. The documentation must state when and how compliance occurred (e.g., benefit authorization, payment made, etc.).
3. If the Part D QIC does not receive the compliance notice within 14 calendar days, it will mail the Part D plan a reminder notice.
4. If the Part D QIC does not receive the compliance notice within 30 calendar days of the reminder notice, the Part D QIC will report the plan's failure to comply with CMS. The Part D plan is not copied on this report to CMS.