

CMS Response to Public Comments Received for CMS-10003

The Centers for Medicare and Medicaid Services (CMS) received the following comments related to the Notice of Denial of Medical Coverage or Payment (CMS-10003; OMB 0938-0829):

Comment:

Two commenters noted the change to the timeframe to file an appeal from 60 days to 65 days. One commenter requested that this change be made to both the Part C and D denial notices while the other commenter was concerned that this was inconsistent with the regulations and other member communications.

CMS Response:

Both the Part C and Part D denial notices have been revised to reflect the change to the timeframe to file an appeal from 60 days to 65 days. We note that the timeframe for filing an appeal is 60 calendar days until 12/31/24. Effective 01/01/2025, the timeframe for filing an appeal is 65 calendar days. Final Rule CMS-4205-P reflects the changes to the appeal timeframe: <https://www.federalregister.gov/documents/2024/04/23/2024-07105/medicare-program-changes-to-the-medicare-advantage-and-the-medicare-prescription-drug-benefit>

Comment:

One commenter suggested that under the section entitled "Important Information About Your Appeal Rights" the language "our decision might take longer if you ask for an extension, or if we need more information about your case" should be bracketed as it is no longer applicable to Part B Drugs.

CMS Response:

We have bracketed the language related to extensions in the section entitled "Important Information About Your Appeal Rights" since Part B drug timeframes cannot be extended.

Comment:

One commenter requested that CMS revise the language under "Your request was {Insert appropriate term: partially approved, denied}." to change the language from "Part B drug" to "Medicare Part B drug." Stating that the current language has caused confusion to Dual Special Needs Plans members and some stated have asked that this language is clarified in their state-specific models.

CMS Response:

We agree that by changing "Part B drug" to "Medicare Part B drug" would help differentiate a Medicare Part B drug from a Medicaid drug and reduce any confusion for D-SNP members. Therefore, we have revised this language throughout the notice to state "Medicare Part B drug".

Comment:

One commenter recommended that fast appeals are made variable throughout the notice since the fast appeals process is not applicable to payment denials. This commenter suggested that the language describing the fast appeals process is not explicitly clear that it is referencing a claims payment denial situation. Therefore, they recommend allowing the fast appeals language be removed for payment denials in order to reduce member confusion and avoid complaints to MA plans or CMS. Alternatively, they suggested that CMS include language that prominently states that fast appeals are not available for payment denials.

CMS Response:

We have added language where the notice discusses fast appeals to make it clear that they are only available for requests for services.

Comment:

One commenter conducted consumer testing with a group of enrollees and have offered several suggestions to simplify content, with a focus on understandability. They have also offered recommendations for plain language and revisions for clarity and readability.

CMS Response:

We adopted some of the suggestions from this commenter and have also made several changes to the notice based on the consumer testing conducted by CMS. We believe the changes made to the notice enhance clarity, readability, and understandability for enrollees. Additionally, the CMS Office of Communications (OC) reviewed and made changes to the form to utilize plain language to increase accessibility and reduce health disparities.