

- The provider or supplier fails to furnish complete and accurate information on the CMS 855 and any applicable documentation within 60 calendar days of our notice to re-certify its enrollment information.

- The provider or supplier knowingly sells to or allows another individual or entity to use its billing number.

In addition to the revocation of the provider's or supplier's billing privileges, we propose at § 424.535(b) that any provider agreement in effect at the time of revocation will also be terminated effective with the date of revocation. We do not feel it would be prudent for CMS to maintain an active provider agreement for a provider or supplier whose business relationship with Medicare was adverse enough as to cause the revocation of their billing privileges. Section 1866(b)(2)(A) of the Act states that the Secretary may terminate a provider agreement after the Secretary "has determined that the provider fails to comply substantially with the provisions of Title XVIII." We will amend §§ 489.53 and 498.3 to reflect this proposal.

In new § 424.535(c) we propose that upon notification of the revocation of its billing number, if the provider or supplier seeks to re-establish enrollment and billing privileges in the Medicare program (either after the appeals process is exhausted or in place of the appeals process), then the provider or supplier must complete and submit a new CMS 855 as a new provider or supplier and applicable documentation. Providers must be re-surveyed or re-certified by the State survey agency as a new provider and must establish a new provider agreement with our Regional Office.

If the billing privileges are revoked due to the adverse activity of an individual or organization other than the provider or supplier, the revocation may be reversed if the provider or supplier terminates their business relationship with the individual or organization that was responsible for the revocation within 30 days.

As with a denial of Medicare enrollment, revocations would impact the provider or supplier on a national scale. As proposed in § 424.535(d), if a provider or supplier's billing privileges are revoked, we would review all other related Medicare enrollment files that the revoked provider or supplier has an association with (for example, as an owner or managing employee) to determine if the revocation warrants an adverse action of the associated Medicare provider or supplier.

### *I. Deactivation of Medicare Billing Privileges*

When a provider or supplier's billing number is deactivated, billing privileges have been temporarily suspended, but can be restored upon the submission of updated or re-certified information. In new § 424.540, we propose to deactivate a provider or supplier's Medicare billing number if no Medicare claims are submitted for 2 consecutive calendar quarters (6 months) unless current policy or regulations specify otherwise for specific provider or supplier types. Our current policy requires deactivation of billing numbers after 4 consecutive calendar quarters (12 months) of no claim submissions. We are including this reduction to the current requirement because we are aware of a number of program integrity issues related to inactive Medicare billing numbers. We wish to prevent, for example, questionable businesses from deliberately obtaining multiple numbers so that they could keep one "in reserve" in the event their practices result in suspension of claims payment under their active number. We also wish to prevent fraudulent entities from obtaining information about discontinued providers or suppliers, for example, using the Medicare billing number of a deceased physician. While we are proposing to use 6 months of no billing as a criteria for deactivation, we are seeking comments on the feasibility and reasonableness of this time frame. We are interested in receiving comments on whether this time frame should apply to all categories of providers and suppliers, or whether there should be a special process for categories of providers and suppliers that would have reason to bill Medicare infrequently.

We are also proposing to deactivate a billing number if we discover changes to the information provided on the provider or supplier's CMS 855 that were not reported within 90 days of the change. This includes, but is not limited to, changes to billing services, a change in the practice location, or a change of any managing employee. A change in ownership or control must be reported within 30 calendar days.

Deactivation of Medicare billing privileges is considered a temporary action to protect the provider or supplier from misuse of their billing number and to also protect the Medicare trust fund from unnecessary overpayments. The temporary deactivation of a billing number will not have any effect on a provider or supplier's participation agreement or conditions of participation.

In proposed § 424.540(b), we state that a provider or supplier whose billing number has been deactivated for any reason other than non-submission of a claim for 6 months and who wants to reactivate its Medicare billing number must complete and submit a new CMS 855. Those providers and suppliers whose billing number has been deactivated after non-submission of a claim must re-certify that the enrollment information current on file with Medicare is correct before the claim will be paid. In addition, the provider or supplier must meet all current Medicare requirements in place at the time of the re-activation. The provider or supplier must also be prepared to submit a valid claim or risk subsequent deactivation of their billing number. Once notified, we will give all reactivations of Medicare billing numbers priority handling to ensure expedient payment of claims. Reactivation of a Medicare billing number would not require re-survey or certification by State agency, or the establishment of a new provider agreement.

### *J. Provider and Supplier Appeal*

In new § 424.545, we propose that a provider or supplier that has been denied enrollment in the Medicare program, or whose enrollment has been revoked, may appeal our decision in accordance with our regulations at Part 405, Subpart H, for suppliers or Part 498, Subpart A, for providers. CMS is currently drafting a single regulatory appeals process for all providers and suppliers denied or revoked from participation in the Medicare program. In keeping with current policy, we also propose that no payments will be made during the appeals process. If the provider or supplier is successful in overturning a denial or revocation, unpaid claims for services furnished during the overturned period may be resubmitted.

In addition, we propose in new § 424.545(b) that a provider or supplier whose billing privilege has been deactivated may file a rebuttal using procedures found at § 405.74.

### *K. Prohibitions on the Sale or Transfer of Billing Privileges*

We propose in new § 424.550 that a provider or supplier would be prohibited from selling its Medicare billing number to any individual or entity, or allowing another individual or entity to use its Medicare billing number. Similarly, we would prohibit a provider or supplier from transferring its Medicare billing privileges to any individual or entity, except during a change in ownership, as stated below. A