

§ 424.545 Provider and supplier appeal rights.

(a) A provider or supplier that has been denied enrollment in the Medicare program or whose Medicare enrollment has been revoked may appeal CMS's decision in accordance with part 405, subpart H, for suppliers, or part 498, subpart A for providers, of this chapter, which set forth the appeals process for providers and suppliers. When revocation of billing privileges also results in the termination of a corresponding provider agreement, the provider may appeal CMS's decision in accordance with part 489 with the final decision of the appeal applying to both the billing privileges and the provider agreement. No payment 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.

(b) A provider or supplier whose billing privileges have been deactivated may file a rebuttal in accordance with § 405.374 of this chapter.

§ 424.550 Prohibitions on the sale or transfer of billing privileges.

(a) *General rule.* A provider or supplier is prohibited from selling its Medicare billing number or privileges to any individual or entity, or allowing another individual or entity to use its Medicare billing number.

(b) *Change of ownership.* In the case of a provider undergoing a change of ownership in accordance with part 489, subpart A of this chapter, the current owner and the prospective new owner must complete and submit a CMS 855 before completion of the change of ownership. If the current owner fails to complete and submit a CMS 855 to report the change, they may be sanctioned or penalized, even after the date of ownership change, in accordance with §§ 424.520, 424.540, and 489.53 of this chapter. If the prospective new owner fails to submit a new CMS 855 containing information concerning the new owner within 30 days of the change of ownership, CMS may deactivate the Medicare billing number. If an incomplete CMS 855 is

submitted, CMS may also deactivate the Medicare billing number based upon material omissions on the submitted CMS 855, or based on preliminary information received or determined by CMS that makes CMS question whether the new owner will be ultimately granted a final transference of the provider agreement.

(c) *Providers and suppliers not covered by part 489 of this chapter.* For those providers and suppliers not covered by part 489, any change in the ownership or control of the provider or supplier must be reported on their CMS 855 within 30 days of the change as noted in § 424.540(a)(2). Generally, a change of ownership which also changes the tax identification number will require the completion and submission of a new CMS 855 from the new owner.

§ 424.555 Payment liability.

(a) No payment may be made for services furnished to a Medicare beneficiary by suppliers of durable medical equipment, prosthetics, orthotics, and other supplies unless the supplier obtains (and renews, as set forth in section 1834(j) of the Act) Medicare billing privileges.

(b) No payment may be made for covered services furnished to a Medicare beneficiary by a provider or supplier if the billing privileges of the provider or supplier have been deactivated, denied, or revoked. The Medicare beneficiary has no financial responsibility for such expenses, and the provider or supplier must refund on a timely basis to the Medicare beneficiary any amounts collected from the Medicare beneficiary for these covered services.

(c) If any provider or supplier furnishes a service for which payment may not be made by reason of paragraph (b) of this section, any expense incurred for such service shall be the responsibility of the provider or supplier. The provider or supplier may also be criminally liable for pursuing payments that may not be made by reason of paragraph (b) of this section, in accordance with section 1128A(a)(6) of the Act.

PART 489—PROVIDER AGREEMENTS AND SUPPLIER APPROVAL

7. The authority citation for part 489 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

8. In § 489.53, paragraph (a)(15) is added to read as follows:

§ 489.53 Termination by CMS.

(a) * * *

(15) It had its enrollment in the Medicare program revoked pursuant to § 424.535 of this chapter.

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PART 498—APPEALS PROCEDURES FOR DETERMINATIONS THAT AFFECT PARTICIPATION IN THE MEDICARE PROGRAM AND FOR DETERMINATIONS THAT AFFECT THE PARTICIPATION OF ICFs/MR AND CERTAIN NFS IN THE MEDICARE PROGRAM

9. The authority citation for part 498 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

10. In § 498.3, paragraph (b)(16) is added to read as follows:

§ 498.3 Scope and applicability.

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(b) * * *

(16) Whether a provider or supplier has had its Medicare enrollment revoked pursuant to § 424.535 of this chapter.

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(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program.)
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Thomas A. Scully,
Administrator, Centers for Medicare & Medicaid Services.

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Tommy G. Thompson,
Secretary.

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