

may fairly be characterized as a basis for sanction.

(iv) Should an endorsed sponsor present evidence described in paragraph (a)(4)(iii) of this section and by the time limit described in that paragraph, a CMS official not involved in the original sanction determination shall review the evidence and provide the endorsed sponsor a concise written decision setting forth the factual and legal basis for the decision that affirms or rescinds the original determination.

(5) *Effective date of sanction.*

(i) A sanction is effective 15 days after the date that the endorsed sponsor is notified of the sanction or, if the endorsed sponsor timely seeks reconsideration of that sanction decision, on the date specified in the notice of CMS's reconsideration determination.

(ii) The sanction remains in effect until CMS notifies the endorsed sponsor that CMS is satisfied that the basis for imposing the sanction has been corrected and is not likely to recur.

(b) *Civil monetary penalties.* (1) *OIG penalties.* The Office of the Inspector General (OIG) may impose civil monetary penalties in accordance with 42 CFR parts 1003 and 1005 in addition to, or in place of, sanctions that CMS may impose, as described in paragraph (a) of this section, against an endorsed sponsor whom it determines has knowingly—

(i) Misrepresented or falsified information in information and outreach or comparable material provided to program enrollee or other persons;

(ii) Charged a program enrollee in violation of the terms of the endorsement contract; or

(iii) Used transitional assistance funds in any manner that is inconsistent with the purpose of the transitional assistance program.

(2) *CMS penalties.* If CMS determines that an endorsed sponsor has engaged in conduct that it knows or should know constitutes a violation as described in paragraph (a)(3) of this section, where the failure to perform involves the operational requirements of the program, CMS may impose civil monetary penalties in accordance with 42 CFR parts 1003 and 1005 in addition to, or in place of, the sanctions that CMS may impose, as described in paragraph (a) of this section.

(3) CMS or the OIG may impose civil monetary penalties of no more than \$10,000 for each violation.

(c) *Termination of endorsement by CMS.* (1) CMS may terminate the endorsement contract at any time with notice on the following bases:

(i) Any of the bases for the imposition of intermediate sanctions as stated in paragraph (a)(3) of this section; or

(ii) The endorsed sponsor engaged in false or misleading information and outreach practices; or

(iii) The endorsed sponsor fails to comply with the requirement of § 403.804(e).

(2) CMS shall provide the endorsed sponsor written notice of termination 30 days prior to the CMS-determined effective date of the termination at which time the endorsed sponsor must do the following:

(i) Provide its discount card enrollees notice of the termination within 10 days of receiving notice from CMS;

(ii) Continue to provide services to its discount card enrollees for 90 days after the discount card enrollees were sent the notice of termination from the endorsed sponsor; and

(iii) Suspend all information and outreach and enrollment activities once enrollees have received the notice of termination.

(3) *Corrective action plan.* Before terminating a contract, CMS shall provide the endorsed sponsor with reasonable opportunity to develop and receive CMS approval of a corrective action plan to correct the deficiencies that are the basis of the proposed termination.

(d) *Termination by endorsed sponsor.*—(1) *Cause for termination.* The endorsed sponsor may terminate its endorsement contract if CMS fails substantially to carry out the terms of the contract.

(2) *Card sponsor notice.* The endorsed sponsor must give advance notice as follows:

(i) To CMS, at least 90 days prior to the intended date of termination. This notice must specify the reasons why the endorsed sponsor is requesting contract termination; and

(ii) To its discount card enrollees, by mail, at least 60 days prior to the termination effective date. This notice must include a written description of alternative endorsed discount card programs that serve the discount card enrollee's address.

(3) *Effective date of termination.* The effective date of the termination is determined by CMS and is at least 90 days after the date CMS receives the endorsed sponsor's notice of intent to terminate.

(e) *Termination by mutual consent.*

(1) A contract may be modified or terminated at any time by written mutual consent.

(2) If the contract is terminated by mutual consent, the endorsed sponsor must provide notice to its discount card

enrollees as provided in paragraph (d)(2) of this section.

(3) If the contract is modified by mutual consent, the endorsed sponsor must provide notice to its discount card enrollees of any changes that CMS determines are appropriate for notification within timeframes specified by CMS.

(f) *Appeal of contract determinations.*

(1) *Scope.* This section establishes the procedures for reviewing the following contract determinations:

(i) A determination that an applicant is not qualified to enter into a contract with CMS under section 1860D–31 of the Act; and

(i) A determination to terminate a contract with an endorsed sponsor in accordance with paragraph (c) of this section.

(2) *Notice of determination.* When CMS makes an initial contract determination, it gives the endorsed sponsor or applicant written notice specifying—

(i) The reasons for the determination; and

(ii) The endorsed sponsor's or applicant's right to request reconsideration.

(3) *Effect of contract determination.* The contract determination is final and binding unless a timely request for a reconsideration hearing is filed under this section.

(4) *Right to reconsideration.* An endorsed sponsor whose contract is terminated or an applicant denied endorsement may request a hearing for reconsideration of the CMS contract determination.

(5) *Method and place for filing a request.* A request for a reconsideration hearing must be made in writing and filed with the CMS Central Office.

(6) *Time for filing a request.* The request for a reconsideration hearing must be filed within 15 days from the date of the notice of the initial determination.

(7) *Appointment of hearing officer.* CMS shall appoint a hearing officer to conduct the reconsideration. The hearing officer shall be a representative of the Administrator and not otherwise a party to the contract determination.

(8) *Conduct of hearing.* The endorsed sponsor or applicant may be represented by counsel and may present evidence and examine witnesses. A complete recording of the proceedings will be made and transcribed.

(9) *Reconsideration determination.* A reconsideration determination is a new determination that—

(i) Is based on a review of the contract determination, the evidence and findings upon which it was based, and