

PRRB and CMS Suspend or Extend Many Appeal and Medicare Cost Report Deadlines Due to Covid-19 But Some Critical Deadlines Remain Unchanged

Insights

04.29.20

Hooper, Lundy & Bookman, PC (HLB) wants to advise providers of the changes in certain deadlines regarding the filing of Medicare cost reports and appeals pending before the Provider Reimbursement Review Board (PRRB).

PRRB Deadlines

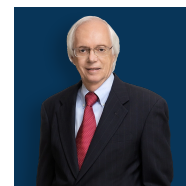
While many PRRB deadlines have been suspended or extended in response to the COVID-19 pandemic, the deadlines for filing PRRB appeals and adding issues to PRRB appeals remain unchanged. On March 25, 2020, the PRRB issued [Alert 19](#), suspending all "Board-Set Deadlines" starting March 13, 2020 until the Board resumes normal operations. The suspension applies to deadlines for the filing of preliminary or final position papers, Schedules of Providers, witness lists, and case status reports, and all hearings previously scheduled for April and May 2020.

Importantly, the PRRB noted that the deadlines for filing an appeal of a Notice of Program Reimbursement (NPR) (within 180 days after notice of the NPR) or adding issues to a pending PRRB appeal (no later than 60 days following the expiration of the 180-day period) remain in effect unchanged. These deadlines cannot be suspended because they are set by statute and/or regulation and, thus, are not "Board-Set Deadlines."

Despite the suspension of Board-Set Deadlines, the PRRB is still accepting all filings and is urging provider representatives to use the Office of Hearings Case and Document Management System (OH CDMS) electronic filing system for filing documents in their appeals, as all PRRB staff are working remotely and will not be reviewing paper filings until normal operations resume. Alert 19 identifies specific procedures for filing hard copy documents. We are advising providers to try to meet current deadlines when possible to avoid the delays that could result in the future because of a backlog caused by deferred filings. Please remember that Schedules of Providers must be submitted in hard copy, and the PRRB has denied requests to submit these only electronically.

As to the deadline for filing an appeal, Alert 19 reminds providers that their representatives can submit a written request to the PRRB pursuant to 42 C.F.R. §405.1836 to extend the time for filing an appeal for "good cause" where the provider can establish that it could not reasonably be expected to submit a hearing request within the designated 180-day

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period due to “extraordinary circumstances beyond its control.” In the past, the PRRB has consistently denied these requests because the circumstances cited by providers did not correspond closely to the examples of extraordinary circumstances” cited in the regulation, *i.e.*, “natural or other catastrophe, fire or strike.” 42 C.F.R §405.1836(b).

When submitting a request for extension, providers should be prepared to set forth specific facts as to why the specific deadline could not be met. While the “national emergency” created by the COVID-19 pandemic may qualify as a “natural or other catastrophe,” the approach the PRRB may take in evaluating these requests is unknown, so a full explanation of the circumstances may be more prudent than simply citing the pandemic. Denials of extension requests can be appealed to the Centers for Medicare and Medicaid Services (CMS) Administrator, but are not subject to judicial review under 42 C.F.R §405.1836(e)(4) (although at least one court has found that denials of these extension requests are, nevertheless, reviewable). Given the uncertainty about the availability of “good cause” extensions, providers should try to meet the appeal deadline.

Cost Report Filing Deadlines

With respect to Medicare cost reports, in light of the COVID-19 pandemic, CMS announced that it was extending the permissible time for the filing of a Medicare Cost Report.^[1] Medicare Administrative Contractor (MAC) websites indicate that the extensions are “blanket extensions” and no requests are required (although it never hurts to submit such requests).^[2] Specifically:

FYE	Initial Due Date	New Due Date
10/31/2019	3/31/2020	6/30/2020
11/30/2019	4/30/2020	6/30/2020
12/31/2019	6/1/2020	7/31/2020

CMS also has issued instructions to MACs to suspend requests for documents until May 15, 2020, for several types of Medicare cost report activities, including desk reviews, audits (including S-10 audits), and reopenings. MACs may only use the documentation that they have already received. If additional information is needed to complete the reviews, MACs may not send any further requests for documentation until May 16, 2020. The due date for any outstanding requests for information related to an S-10 audit has been extended to May 15, 2020.^[3] Providers with questions should direct them to their assigned MAC.

CMS has also granted an extension to hospitals to submit their completed 2019 Occupational Mix Surveys, Hospital Reporting Form CMS-10079, for the Wage Index Beginning FY 2022. Prior to the extension, hospitals were due to submit these surveys to their MACs by July 1, 2020. CMS has now extended this deadline to August 3, 2020. Requests for a further extension may be approved, if warranted. Such requests should be brought to the attention of the MAC for consideration by CMS.^[4]

HLB is available to assist with these and any other Medicare Part A reimbursement issues. For further information or assistance, please contact [Arthur Peabody](#) or [Bob Roth](#) in Washington D.C., [Nina Adatia Marsden](#) in Los Angeles, or your regular HLB contact.

[1] CMS Publication, *Hospitals: CMS Flexibilities to Fight COVID* 19 at 7, available at <https://www.cms.gov/files/document/covid-hospitals.pdf>; also see, *Covid-19 Frequently Asked Questions (FAQs) on Medicare Fee-for-Service (FFS) Billing* at 33 (Apr. 10, 2020), available at <https://www.cms.gov/files/document/03092020-covid-19-faqs-508.pdf>.

[2] See, e.g., CGS, *Cost Reports (Part A, Home Health and Hospice)*, available at <https://www.cgsmedicare.com/parta/topic/covid-19.html>.

[3] See, e.g., Noridian, *Covid-19 Cost Report Documentation Requests*, available at <https://med.noridianmedicare.com/web/jea/topics/emergencies-disasters#documentation-request>.

[4] CMS Publication, *COVID 19 Emergency Declaration Blanket Waivers for Healthcare Providers* at 10; available at <https://www.cms.gov/files/document/summary-covid-19-emergency-declaration-waivers.pdf>.

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