

Medicare Advantage Contract-Specific
Risk Adjustment Data Validation
Audit Dispute and Appeal Guidance

Level 1: Reconsiderations

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Table of Contents

Purpose	1
RADV Audit Dispute and Appeal Processes	1
Appeals Eligibility Requirements	1
Timing of MRRD and PEC Appeals	2
Level One: Reconsideration Stage	2
Reconsideration Appeal Submission.....	2
The Reconsideration Process	3
Reconsideration Official’s Decision.....	4
Document History	5

Purpose

This guidance provides an overview of the regulatory requirements and operational instructions to Medicare Advantage Organizations (MAOs) for the Risk Adjustment Data Validation (RADV) audit dispute and appeal processes. The audit dispute and appeal processes apply to contract-specific RADV audits conducted by the Secretary, including audits completed by the Centers for Medicare & Medicaid Services (CMS) and the Department of Health and Human Services Office of Inspector General (OIG). This document includes information about dispute eligibility, appeal initiation and documentation, level one reconsideration process, and reconsideration decision documents.

RADV Audit Dispute and Appeal Processes

The RADV audit dispute and appeal processes regulation¹ provides the rights and responsibilities for MAOs intending to appeal the Secretary's RADV audit findings. MAOs have the right to appeal medical record review determinations (MRRD) and payment error calculations (PEC) determinations through three levels of administrative appeal: (1) reconsideration, (2) hearing, and (3) CMS Administrator review. Requests for a Level 1 Reconsideration must be submitted through CMS' secure RADV audit support system, the Centralized Data Abstraction Tool (CDAT), within 60 days from the date of issuance of an audit report.² MAOs bear the burden of proof in demonstrating that the MRRD and/or PEC decisions were incorrect.³

Appeals Eligibility Requirements

CMS regulations at 42 CFR 422.311 establish the eligibility and ineligibility guidelines for MRRD and PEC appeals.⁴ MAOs must follow RADV rules and adhere to audit procedures and requirements, as well as appeals procedures and requirements, for an appeal to be valid.⁵ Published audit procedures and requirements for a given payment year (PY) audit include such documents as the Medical Record Reviewer Guidance (MRRG), documents housed in CDAT plan libraries, and Audit Methods and Instructions. Additional documents/instructions related to audit procedures and requirements that are disseminated by CMS to MAOs must also be followed for an appeal to be valid.

MAOs should review the RADV PEC Methodology shared with each issued audit report (for PY 2011-2015 audits) and the Audit Methods and Instructions documents shared with each audited MAO at the beginning of an audit (for audits for PY 2018 and later years) to ensure that only issues eligible for appeal are submitted for reconsideration. When viewing a CMS-issued audit report, note that audited hierarchical condition categories (HCCs) determined to be "Discrepant" or "Discrepant lower" are eligible for reconsideration, while those determined to be "Confirmed" or "Confirmed higher" are not. Other issues ineligible for appeal include:

- The MRRD methodology (which includes credit for additional HCCs identified during the medical record review process)

¹ 42 CFR 422.311

² 42 CFR 422.311(c)(5)(ii)

³ 42 CFR 422.311(c)(4)

⁴ 42 CFR 422.311(c)(2)(i)

⁵ 42 CFR 422.311(c)(2)(ii)

- PEC methodology (which includes any extrapolation methodology that may apply)
- Potential RADV errors due to an MAO’s failure to submit a valid medical record⁶

Medical records deemed invalid during the medical record intake review process are ineligible for appeal as the submission of these documents failed to follow audit procedures and requirements.⁷ Requests for hardship exceptions are also not eligible for appeal under 42 CFR 422.311. A PEC appeal may not challenge the accuracy/impact of non-health related data factors that may affect enrollee risk scores and the payment error calculation.⁸

As applicable, the reconsideration decision document will include a rationale for why any request was deemed ineligible for RADV appeal. Appeals deemed ineligible for reconsideration are ineligible for hearing and Administrator review.

Timing of MRRD and PEC Appeals

For MAOs that intend to appeal both MRRD and PEC decisions, the request for a PEC appeal cannot be filed or adjudicated until the MRRD administrative appeal process is exhausted or considered final.⁹ MAOs retain the right to appeal a revised PEC that results from an MRRD appeal and must submit the request for reconsideration within 60 days of the issuance of the revised audit report following the completion of the MRRD appeal process.¹⁰ Should an MAO decide to only appeal the PEC, it is forgoing its right to appeal the MRRD determination.¹¹

Level One: Reconsideration Stage

Reconsideration Appeal Submission

This section provides the required documentation an MAO must submit when filing an MRRD or PEC appeal.

An MRRD appeal must include a disputed HCC-enrollee combination, supporting medical record, justification of how the medical record indicates a diagnosis that supports the audited HCC, and an attestation (if one was included with the supporting medical record submission when it was originally submitted to CMS).¹² CDAT provides a space for an MAO to submit an MRRD appeal justification with a 2,000-character limit. Only one medical record can be submitted per disputed HCC-enrollee combination.¹³ MAOs should select what they believe to be the “one best” supporting medical record per disputed HCC-enrollee combination. In the justification, MAOs must include the specific page(s) in the medical record they believe substantiates the HCC, as well as indicate the relevant International

⁶ 42 CFR 422.311(c)(3)

⁷ 42 CFR 422.311(c)(2)(ii); During the medical record intake evaluation every medical record is assessed to determine whether it follows the criteria for a valid medical record. If a medical record does not meet the criteria it is deemed “invalid” and is not coded.

⁸ Such non-health related data factors may be corrected in the appropriate data reconciliation process but are ineligible for RADV Audit PEC appeal.

⁹ 42 CFR 422.311(c)(5)(iii)

¹⁰ 42 CFR 422.311(c)(5)(iv)

¹¹ 42 CFR 422.311(c)(5)(ii)(B)

¹² 42 CFR 422.311(c)(6)(i), 42 CFR 422.311(c)(2)(iv)

¹³ 42 CFR 422.311(c)(2)(iv)

Classification of Disease (ICD) code(s) the MAO believes substantiate the audited appealed HCC. The pages cited in the justification should align with the pages from the CDAT medical record. Additionally, if a justification references an American Hospital Association (AHA) coding clinic, then include a citation for that specific item. MAOs cannot submit new medical records or other documentation not included in the initial audit submission.¹⁴

A PEC appeal must include the MAO's payment error calculation and specify where the Secretary's PEC was erroneous.¹⁵ CDAT provides a space for an MAO to submit a PEC appeal justification with a 2,000-character limit; however, MAOs may also include additional documentary evidence related to the PEC they wish the reconsideration official to consider.¹⁶ Failure to include the necessary content for appeal submission will result in ineligible appeal determinations.

Level one reconsideration appeal submissions will use the CDAT system. MAOs have the full 60-day window to submit a reconsideration appeal. Should an MAO decide to dispute audit findings for multiple audited HCCs for an MRRD appeal, the MAO must submit all disputed HCC-enrollee combinations in one submission. The MAO can save their work prior to submitting and return to complete the request. Once an MAO is ready to submit an MRRD or PEC appeal, the user will be taken to a certification screen where they can review their appeal to ensure all inputted information is accurate and to certify that the appeal is final. Once an MAO certifies an appeal as final, this is considered a "submission," and no additional changes can be made to the appeal even if it is submitted prior to the closure of the 60-day submission window.

Once an appeal is submitted, an MAO will be provided a unique Reconsideration Reference Number (RRN) and Appeal Reference Number (ARN) for recordkeeping purposes. The RRN will include an "M" or a "P" to denote whether it is for a MRRD or PEC appeal, respectively. The ARN is a unique eight-digit number assigned to each disputed HCC-enrollee combination which serves as confirmation a dispute has been successfully submitted. For instructions on how to submit an MRRD or a PEC appeal in CDAT, refer to the *CDAT User Guide* located in the relevant PY's CDAT plan library.

The Reconsideration Process

Once an MAO submits a request for reconsideration, review by the reconsideration official will begin. Reconsideration will be conducted by either a medical review professional not involved in the initial medical record review at the audit level (for MRRD appeals) or a third-party not involved in the initial RADV payment error calculation (for PEC appeals).¹⁷ Reconsiderations consist of two steps: (1) determining appeal eligibility, and (2) reviewing eligible appeals and providing a written reconsideration decision. Reconsideration decisions will detail eligibility decisions, as well as the applicable appeal determinations for eligible appeals.

An MRRD reconsideration consists of the reconsideration official reviewing the supporting medical record and the accompanying dispute justification. The reconsideration official reviews the material

¹⁴ 42 CFR 422.311(c)(3)(i)

¹⁵ 42 CFR 422.311(c)(2)(vi)

¹⁶ 42 CFR 422.311(c)(6)(ii)(B)

¹⁷ 42 CFR 422.311(c)(6)(iii)(A), 42 CFR 422.311(c)(6)(iii)(B)

provided by the MAO and issues a written decision regarding each eligible HCC-enrollee combination.¹⁸ The reconsideration decision document also states which MRRD decisions are eligible or ineligible for a level 2 hearing review.

A PEC reconsideration consists of a review of the Secretary's PEC, a review of the MAO's proposed PEC, and a recalculation of the payment error in accordance with CMS' (or OIG's) RADV PEC methodology.¹⁹ After reviewing the material provided by the MAO and recalculating the payment error, the reconsideration official will provide a written decision.²⁰ The reconsideration decision document states whether the PEC decision is eligible or ineligible for a level 2 hearing review.

Reconsideration Official's Decision

Reconsideration decisions will be provided to MAOs through a decision document in CDAT. The decision document will include information regarding eligibility and process for requesting a Hearing. Once the reconsideration decision is available, MAO POCs will be notified by email and will be able to download the reconsideration decision document in CDAT.

For an MRRD appeal, the decision document will include a disposition summary of the disputed HCC-enrollee combinations and the findings of fact and analysis for each disputed HCC-enrollee combination. The findings of fact and analysis will contain the individually disputed HCC-enrollee combination, exhibits submitted for each, and the corresponding legal analysis for each decision. The reconsideration official's decision is final unless it is reversed or modified by a final decision of the hearing officer, as specified at 422.311(c)(6)(iv)(B).²¹

Once the reconsideration official's MRRD decision is considered final in accordance with 422.311(c)(6)(iv)(B), the Secretary will recalculate the MAO's PEC and issue a revised audit report that supersedes all prior audit reports. If the reconsideration official's decision does not change any of the audit level decisions and therefore does not require a revision to the original audit report, the original audit report will be reissued with a new date. The issuance of a revised or reissued audit report will trigger appeal rights for the PEC that results from the MRRD decisions made by the reconsideration official.

For a PEC appeal, the decision document will detail the findings of the reconsideration official and the outcome of the decision. The reconsideration official's decision is final unless it is reversed or modified by a final decision of the hearing officer as specified at 422.311(c)(6)(iv)(B). Once PEC appeal rights are exhausted and the PEC is considered final, the Secretary recalculates the MAO's payment error and issues a revised audit report that supersedes all prior audit reports. The revised audit report will reflect the recalculated MRRD and PEC reconsideration decisions.

¹⁸ 42 CFR 422.311(c)(6)(iii)(A), 42 CFR 422.311(c)(6)(iv)

¹⁹ 42 CFR 422.311(c)(6)(iii)(B)

²⁰ 42 CFR 422.311(c)(6)(iii)(B), 42 CFR 422.311(c)(6)(iv)

²¹ 42 CFR 422.311(c)(6)(iv)(B)

Document History

Version Number	Date	Description of Changes
1	01/16/2025	Original document.