

**ALERT 11:  
REVISION OF PRRB RULES  
REINSTATEMENTS AND WITHDRAWALS  
(July 1, 2015)**

The Board has made revisions to the PRRB Rules regarding reinstatements and withdrawals (See Rules (and sub-rules) 46 and 48). The revisions are effective **July 1, 2015**. These instructions supersede those previously issued. The changes to the PRRB Rules have been highlighted and dated with the effective date of the change. The PRRB Rules can be found at [http://www.cms.gov/Regulations-and-Guidance/Review-Boards/PRRBReview/PRRB\\_Instructions.html](http://www.cms.gov/Regulations-and-Guidance/Review-Boards/PRRBReview/PRRB_Instructions.html)

## **Rule 46 – Reinstatement**

### **46.1 – Motion for Reinstatement**

A Provider may request reinstatement of an issue(s) or case within three years from the date of the Board's decision to dismiss the issue(s)/case or, if no dismissal was issued, within three years of the Board's receipt of the Provider's withdrawal of the issue(s) (see 42 C.F.R. § 405.1885 addressing reopening of Board decisions). The request for reinstatement is a motion and must be in writing setting out the reasons for reinstatement (see Rule 44 governing motions). The Board will not reinstate an issue(s)/case if the Provider was at fault. If an issue(s)/case was remanded pursuant to a CMS ruling (e.g., CMS Ruling 1498-R), the Provider must address whether the CMS ruling permits reinstatement of such issue(s)/case. If the Board reinstates an issue(s) or case, the Provider will have the same rights (no greater and no less) that it had in its initial appeal. These requirements also apply to Rules 46.2 and 46.3 below. [July 1, 2015]

### **46.2 – Withdrawals As a Result of Administrative Resolution or Agreement to Reopen**

#### **A. Administrative Resolution**

Upon written motion, the Board will grant reinstatement of an issue(s)/case if an issue(s)/case was withdrawn as a result of an administrative resolution in which the Intermediary agreed to reopen a final determination under appeal with the Board but failed to issue a new final determination (e.g., Revised NPR) for that issue(s) as agreed. In its motion for reinstatement, the Provider must attach a copy of the relevant administrative resolution). [July 1, 2015]

#### **B. Reopening**

Upon written motion, the Board will also grant reinstatement of an issue(s)/case if a Provider requested to withdraw an issue(s) from its case because the Intermediary agreed to reopen/revise the cost report for that issue(s) but failed to reopen the cost report and issue a new final determination (e.g., Revised NPR) for that issue(s) as agreed. In its motion for reinstatement, the Provider must attach a copy of the correspondence from the Intermediary where the Intermediary agreed to reopen the final determination for that issue(s). [July 1, 2015]

### **46.3 – Dismissals for Failure to Comply with Board Procedures**

Upon written motion demonstrating good cause, the Board may reinstate a case dismissed for failure to comply with Board procedures. Generally, administrative oversight, settlement negotiations or a change in representative will not be considered good cause to reinstate. If the dismissal was for failure to file with the Board a required position paper, Schedule of Providers, or other filing, the motion for reinstatement must, as a prerequisite, include the required filing before the Board will consider the motion. [July 1, 2015]

## **Rule 48 – Withdrawal of an Appeal or Issue within an Appeal**

A Provider's request to withdraw an issue(s) or case must be in writing. It is the Provider's responsibility to withdraw: (1) an issue(s) or case that the Provider no longer intends to pursue; (2) an issue(s) or case in which an administrative resolution has been executed and attach a copy of such administrative resolution; (3) an issue(s) for which the Intermediary has agreed to reopen the final

determination for that issue(s) and attach a copy of the correspondence from the Intermediary where the  
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Intermediary agreed to that reopening; and (4) a case in which all issues have been handled, whether by resolution, transfer, dismissal, or withdrawal.

When a Provider notifies the Board that it is withdrawing an issue(s), the Provider's notification must:

(1) describe the specific issue(s) being withdrawn; (2) address whether the withdrawal is conditioned/dependent on the Intermediary's action through an administrative resolution or reopening;

and (3) confirm whether there are any other issues remaining in the case and, if so, provide the status on

each remaining issue. Note that the Board will not issue a decision to acknowledge the withdrawal of an

issue(s) if the withdrawal does not result in the closure of the case. [*July 1, 2015*]