2017 Benefit Year Administrative Appeals Process for Risk Adjustment Transfers

August 7, 2018

Health Insurance Marketplace Program Training Series

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Agenda

- Session Guidelines
- Intended Audience
- Purpose
- Stages of the 2017 Benefit Year Administrative Appeals Process
- Request for Reconsideration
- Informal Hearing Before the Centers for Medicare & Medicaid Services (CMS) Hearing Officer
- CMS Administrator Review
- Resources
- Closing Remarks

Session Guidelines

- This is a 90-minute webinar session.
- For questions regarding risk adjustment (RA) administrative appeals, please email: ACAfinancialappeals@cms.hhs.gov.
- For questions regarding logistics and registration, please contact the Registrar at: (800) 257-9520.

Intended Audience

- Issuers of RA Covered Plans
- Third Party Administrators (TPAs) or Vendors who assist issuers of RA Covered Plans

Purpose

- To describe the administrative appeals procedures set forth in 45 CFR 156.1220 related to the RA program for the 2017 Benefit Year
- To set forth the process for requesting a reconsideration related to the RA program

2017 Benefit Year Administrative Appeals Process

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Stages of the Appeals Process

- There is a three-level administrative appeals process for the RA program:
  1. Request for Reconsideration
  2. Informal Hearing before the CMS Hearing Officer
  3. Review by the CMS Administrator (or delegate), at the discretion of the CMS Administrator

RA Program Halt

- On July 7, 2018, CMS announced it was putting the RA program on hold pending the resolution of a court decision invalidating an aspect of the risk adjustment methodology for the 2014-2018 Benefit Years.
- On July 30, 2018, CMS published a final rule adopting the risk adjustment methodology for the 2017 Benefit Year (83 FR 36456).

RA Program Halt (Continued)

- The publication of this final rule permitted CMS to resume risk adjustment operations for the 2017 Benefit Year.
- See July 27, 2018, *Update on the HHS-operated Risk Adjustment Program for the 2017 Benefit Year*, available at: https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/2017-RA-Final-Rule-Resumption-RAOps.pdf

Request for Reconsideration

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Basis for Request for Reconsideration

- An issuer may only file a request for reconsideration to contest:
  - A processing error by the Department of Health and Human Services (HHS);
  - A mathematical error by HHS; or
  - HHS's incorrect application of the relevant RA methodology.

Previously Filed Discrepancy

- A reconsideration may be requested only if, to the extent the issue could have been previously identified by the issuer to HHS through the formal discrepancy reporting process (§153.710(d)(2)), it was so identified, and remains unresolved.

Materiality Threshold

- An issuer may file a request for reconsideration only if the amount in dispute is equal to or exceeds one (1) percent of the applicable payment or charge payable to or due from the issuer for the benefit year, or $10,000, whichever is less.

Timeliness of Reconsideration Requests

- For Benefit Year 2017, the window to submit requests for reconsideration related to RA is **Wednesday August 8, 2018**, to **Friday, September 7, 2018 at 11:59 p.m. Eastern Time (ET)**.
  - This includes appeals related to RA default charges.
- We note that CMS did not delay the administrative appeals process for matters related to the 2017 Benefit Year RA user fees.
  - Issuers have until August 10, 2018 to request reconsideration of the 2017 Benefit Year user fee amounts.

Review of Requests for Reconsideration

- CMS will only review a Request for Reconsideration if:
  - It is made on a proper basis;
  - It is submitted in a timely manner;
  - It is related to a previously filed discrepancy report that remains unresolved (unless it is a discrepancy that could not have been previously identified); and
  - It meets the materiality threshold.

Accessing the PPACA Request for Reconsideration Web Page

- CMS created the Patient Protection and Affordable Care Act (PPACA) Request for Reconsideration web page with multiple links for issuers to access various Reconsideration Request web forms, including the RA Reconsideration Web Form.
  - The RA Reconsideration Web Form is also used if appealing the amount of a RA default charge.

Accessing the PPACA Request for Reconsideration Web Page (Continued)

- The web page link will be emailed to the Chief Executive Officer (CEO) Designate and Alternate CEO Designate, and posted to the Center for Consumer Information and Insurance Oversight (CCIIO) website on August 8, 2018.
  - If you have any questions regarding the location of the web form, please email ACAfinancialappeals@cms.hhs.gov.

Request for Reconsideration Web Form

- Issuers who wish to request reconsideration for the 2017 Benefit Year must complete the Request for Risk Adjustment Reconsideration Web Form.
  - The web form will be available from **Wednesday, August 8, 2018** to **Friday, September 7, 2018 at 11:59 p.m. ET.**
- All requests for reconsideration **must** be submitted through the web form.

Note that any requests for reconsideration **cannot** include any Personally Identifiable Information (PII) or Protected Health Information (PHI).

Request for Reconsideration Web Form (Continued)

- The Request for Risk Adjustment Reconsideration Web Form user guide can be downloaded from Registration for Technical Assistance Portal (REGTAP), the CCIIO-website, and the Request for Reconsideration web form.
- The Request for Reconsideration web form must be completed at a company level.
- Companies will login with the CEO Designate or Alternate CEO Designate Login ID and the EDGE Server Contact Database Access Code.

Request for Reconsideration Web Form (Continued)

- If there are multiple Health Insurance Oversight System (HIOS) IDs with the same issue, the company can describe the request for reconsideration and select the HIOS IDs to which it relates.
- The form will populate the list of HIOS IDs using the CEO Designate information (similar to the 2017 Benefit Year attestation and discrepancy reporting process).

Web Form: Welcome Page

You have an EDGE Server Contact Database Access Code.

Log in with Access Code.

You have not previously accessed the EDGE Server Contact Database to create an Access Code..

Select the "EDGE Server Contact Database web form to create your Access Code."

I have not created an EDGE Server Contact Database Access Code or I need to reset my Access Code.
Please access the EDGE Server Contact Database web form to create or reset your Access Code. [https://acapaymentoperations.secure.force.com/EdgeContactDatabase].

You have forgotten your EDGE Server Contact Database Access Code.

Select the 'Forgot Access Code' link to reset it.

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Web Form: Access Code Pages

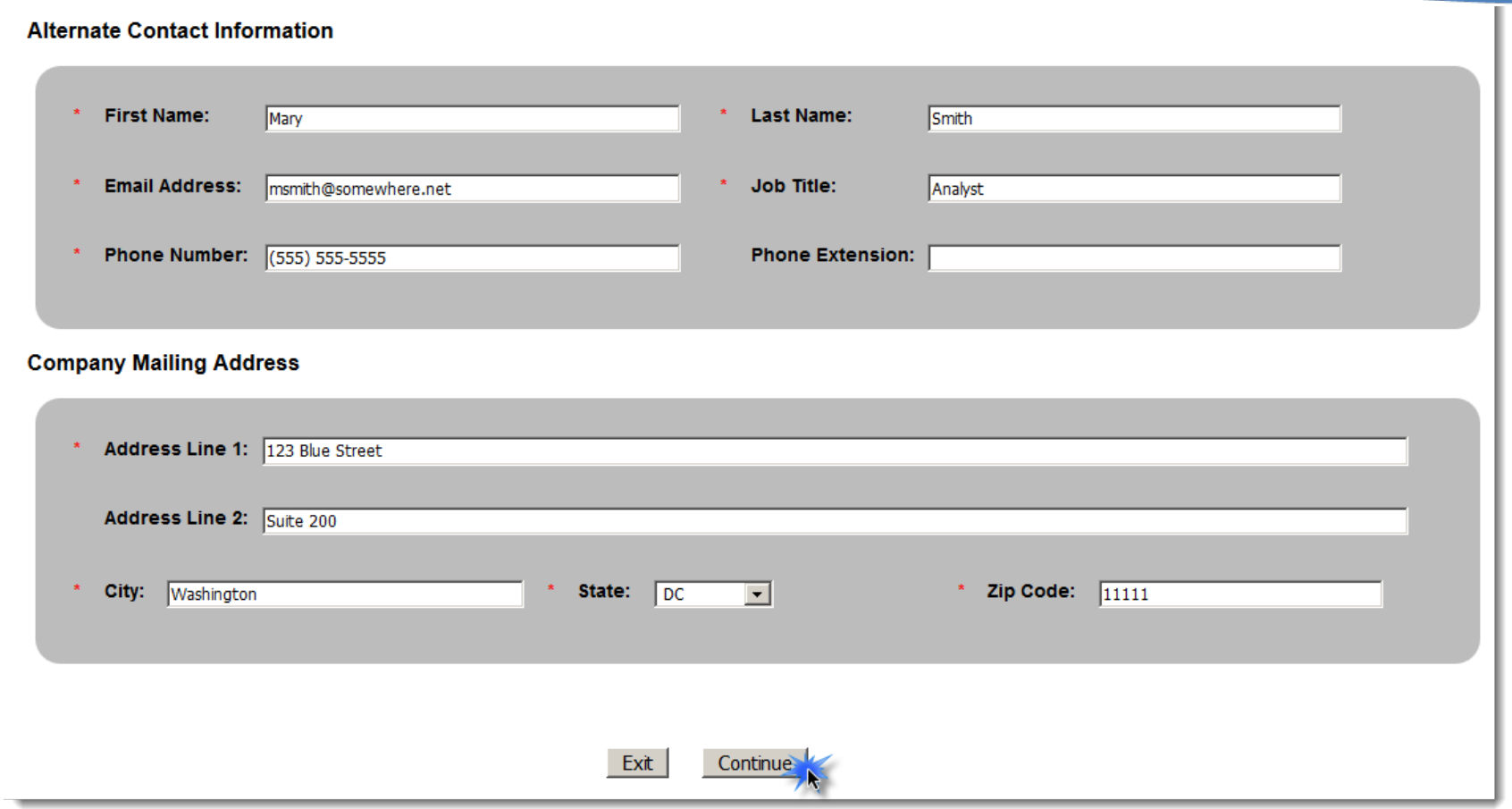
- **Create Access Code**
  - Create an Access Code using the EDGE Server Contact Database form and complete security questions. After completing the creation of the access code, return to the web form and log in. Required fields are indicated with a red asterisk (*).

- **Forgot Access Code Page**
  - Enter the CEO Designate or Alternate CEO Designate email address.
  - Select the **Send PIN** button to have the PIN sent to the CEO Designate and Alternate Contact email addresses on file.
  - Enter the six-digit PIN in the **PIN** field and select the **Continue** button.

Web Form:
Contact Information Page

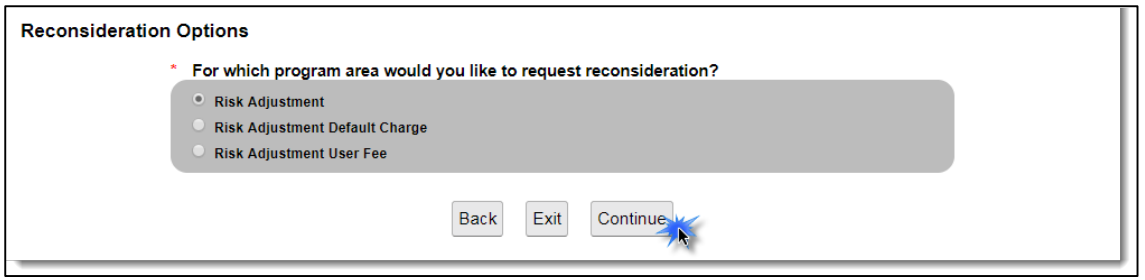
- You will be directed to the Contact Information page once the Login ID (CEO Designate email address) and Access Code fields are validated to match what is on record.
- The Submitter and Alternate Contact information must not be for the same individual.
- Select the **Continue** button.

Web Form: Contact Information Page (Continued)



Web Form: Requesting Reconsideration Options Page

Risk Adjustment or Risk Adjustment Default Charge Reconsideration Request:

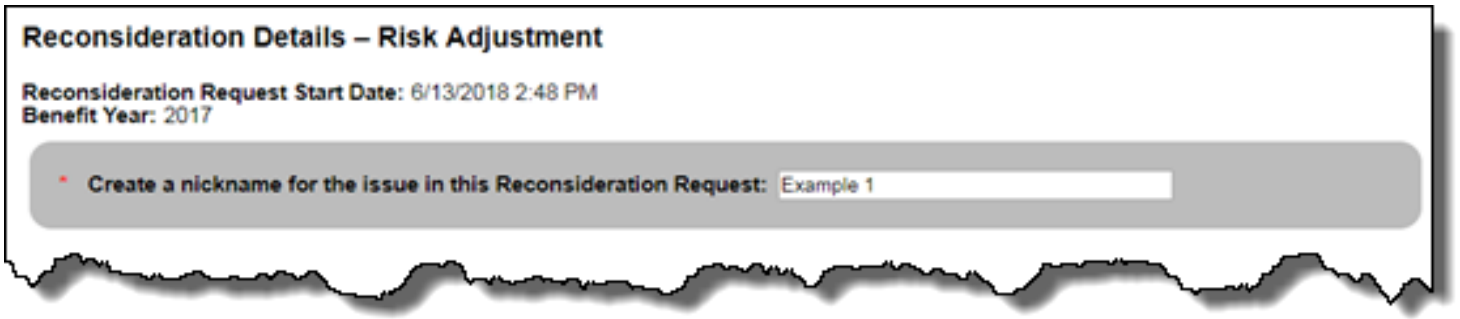


- Answer the question, “For which program would you like to request reconsideration?”
- If you select the **Risk Adjustment** or **Risk Adjustment Default Charge** radio button:
  - Select the **Continue** button.
  - The form navigates to the **Reconsideration Request Details** page.

Web Form: Reconsideration Request Details Page

Risk Adjustment or Risk Adjustment Default Charge Reconsideration Request:

- Enter a Reconsideration Request nickname in the **Create a nickname for this Reconsideration Request** field.



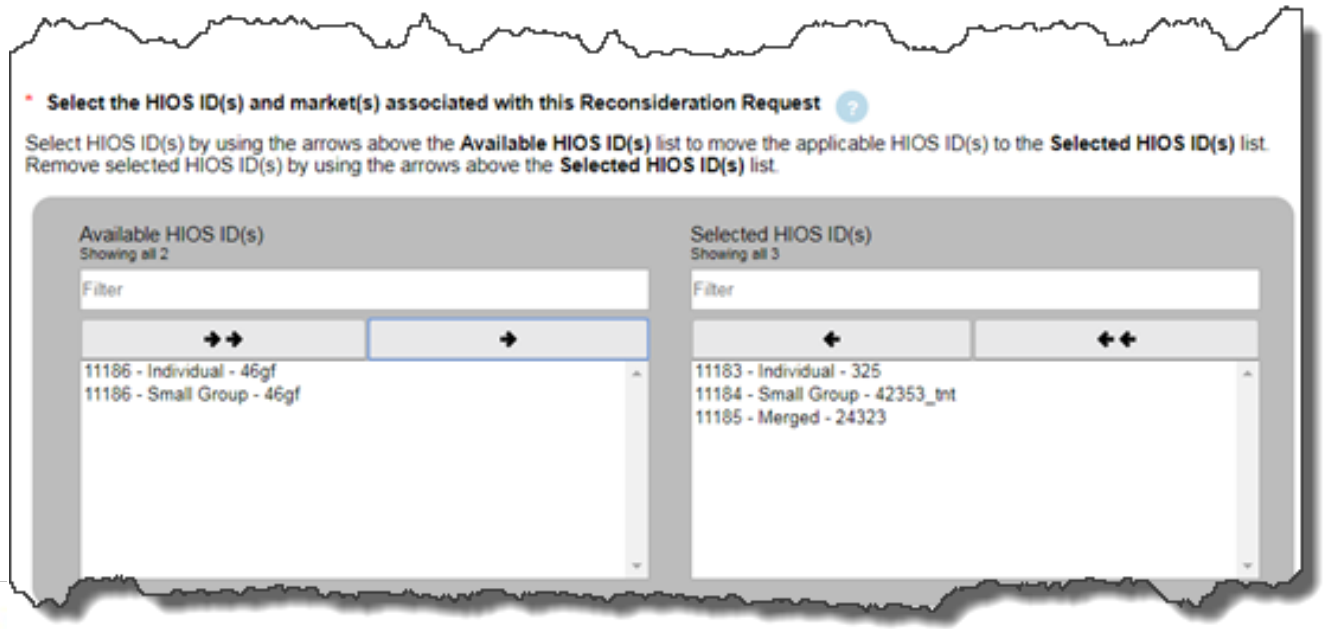
NOTE

There will be an opportunity to report additional reconsideration requests prior to submitting your attestation.

Web Form: Reconsideration Request Details Page (Continued)

Risk Adjustment or Risk Adjustment Default Charge Reconsideration Request:

- Select the HIOS ID(s) and associated market for which you are requesting reconsideration for the same issue from the **Available HIOS ID(s)** list.



Web Form: Reconsideration Request Details Page (Continued)

Risk Adjustment or Risk Adjustment Default Charge Reconsideration Request:

- Select **Yes** or **No** to the question, “Did you report a discrepancy related to this Reconsideration Request?”

Yes

- Enter the Discrepancy ID (the number generated from the RA Attestation Discrepancy Reporting web form)
- The Discrepancy Submission Date is auto-populated based on the Discrepancy ID

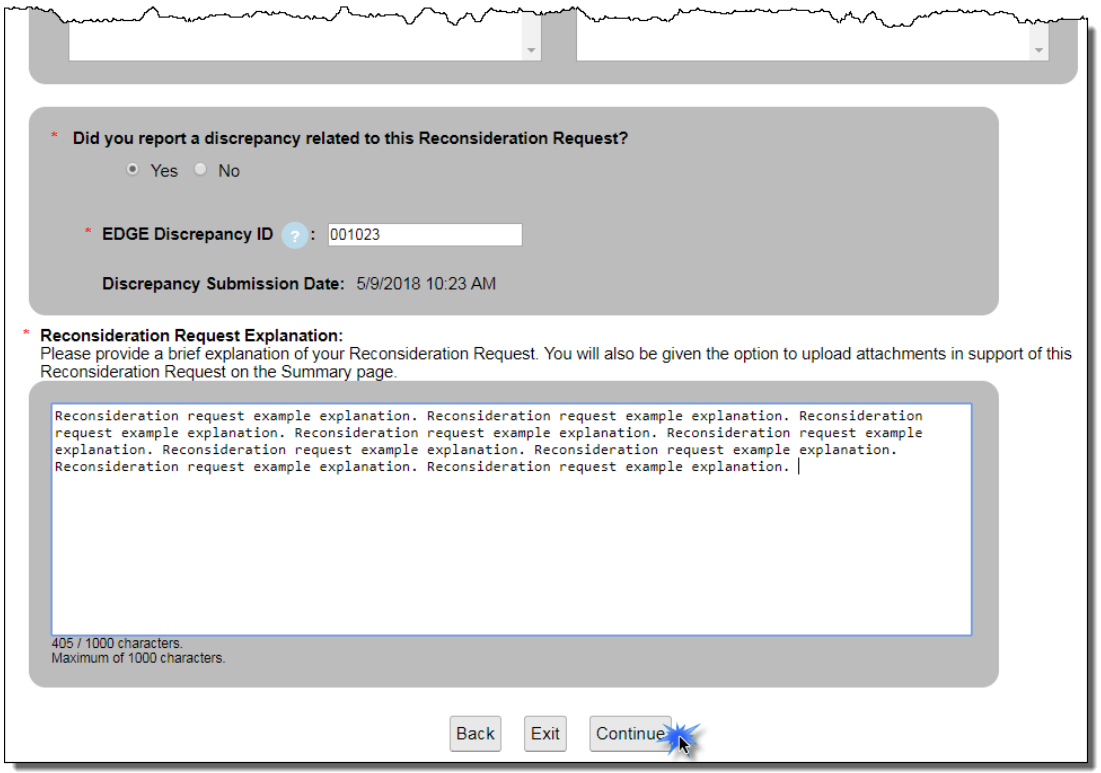
No

- Continue to the next part of the Reconsideration Request Details page

- Provide a brief explanation of your Reconsideration Request in the **Reconsideration Request Explanation** field.
  - Select the **Continue** button.
  - Form navigates to the Reconsideration Request Amount Details Page.

Web Form: Reconsideration Request Details Page (Continued)

Risk Adjustment or Risk Adjustment Default Charge Reconsideration Request:



Web Form: Reconsideration Request Amount Details Page

Risk Adjustment or Risk Adjustment Default Charge Reconsideration Request:

Enter the amount for which you are requesting Reconsideration

Enter the amount listed in the July 9, 2018 *Summary Report on Permanent Risk Adjustment Transfers for the 2017 Benefit Year*

* **Enter the Amounts in the table for each HIOS ID and Market:**

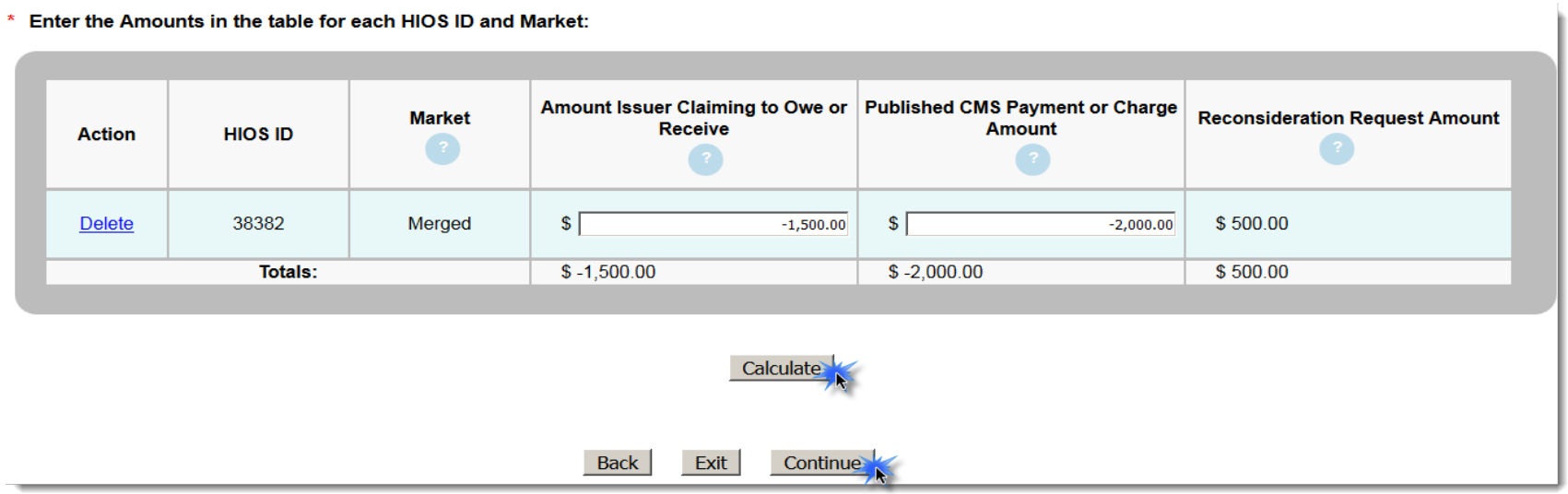
Action	HIOS ID	Market	Amount Issuer Claiming to Owe or Receive	Published CMS Payment or Charge Amount	Reconsideration Request Amount
Delete	38382	Merged	$ -1,500.00	$ -2000.00	$
Totals:			$	$	$

NOTE **A charge amount must be entered as a negative number.**

Web Form: Reconsideration Request Amount Details Page (Continued)

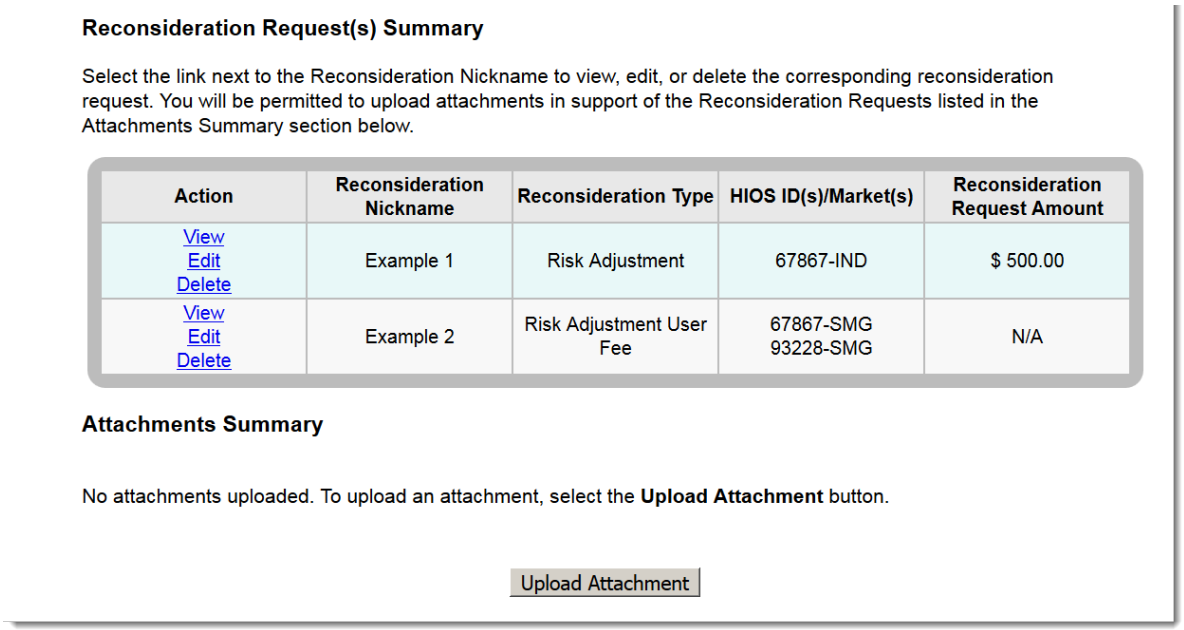
Risk Adjustment or Risk Adjustment Default Charge Reconsideration Request:

- Select the **Calculate** button to populate the **Reconsideration Request Amount** column and **Totals** row.
- Select the **Continue** button.



Web Form: Summary Page

- Review the **Reconsideration Request(s) Summary** section.
  - Confirm the accurate reconsideration request information was entered.
  - Confirm the correct HIOS ID(s) was entered.



Reconsideration Request(s) Summary

Select the link next to the Reconsideration Nickname to view, edit, or delete the corresponding reconsideration request. You will be permitted to upload attachments in support of the Reconsideration Requests listed in the Attachments Summary section below.

Action	Reconsideration Nickname	Reconsideration Type	HIOS ID(s)/Market(s)	Reconsideration Request Amount
View Edit Delete	Example 1	Risk Adjustment	67867-IND	$ 500.00
View Edit Delete	Example 2	Risk Adjustment User Fee	67867-SMG 93228-SMG	N/A

Attachments Summary

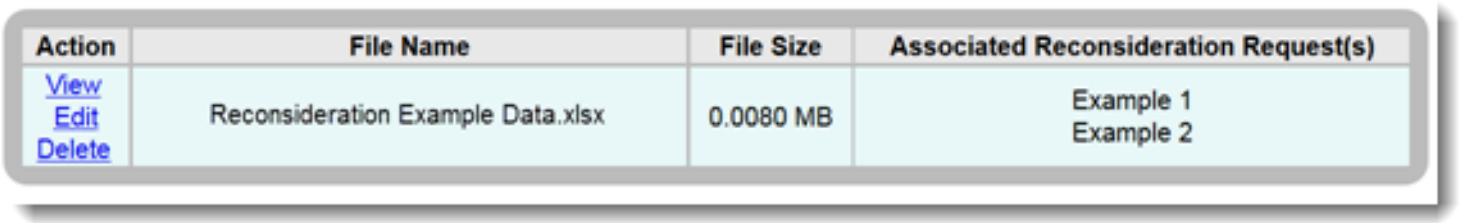
No attachments uploaded. To upload an attachment, select the **Upload Attachment** button.

Upload Attachment

Web Form: Summary Page (Continued)

- Select the **Upload Attachments** button to upload supporting documentation for the reported reconsideration request.

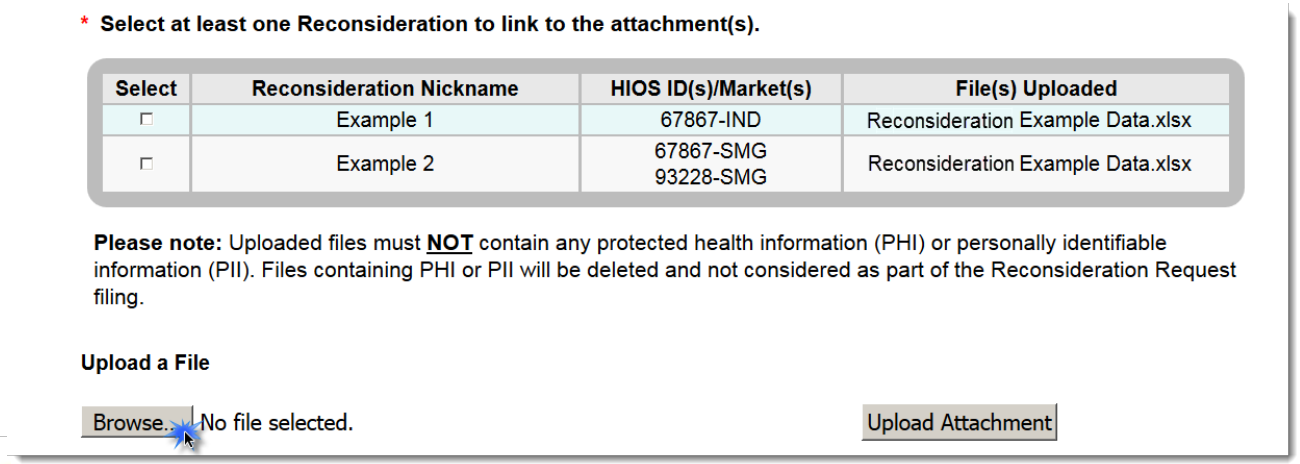
- . Review the **Attachments Summary** section, if applicable



Action	File Name	File Size	Associated Reconsideration Request(s)
View Edit Delete	Reconsideration Example Data.xlsx	0.0080 MB	Example 1 Example 2

Web Form: Upload Attachments Page

- Select the **Upload Attachments** button from the **Summary** page.
- Select at least one (1) Reconsideration Nickname to link to the attachment(s).
- Select the **Browse** button in the Upload a File section.
- Select the document for upload (the document name will appear in the **Upload a File** field.



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Web Form: Upload Attachments Page (Continued)

Browse...

Upload Attachment

Max Size: 10 MB
Limit: 10 files per reconsideration

You have uploaded the following file(s). Select the link next to the attachment to view, edit, or delete the selected attachment. Once all attachments have been uploaded, select the **Save & Return** button to save your updates and return to the Summary page.

Action	File Name	File Size	Associated Reconsideration Request(s)
View Edit Delete	Reconsideration Example Data.xlsx	0.0080 MB	Example 1 Example 2

Save & Return

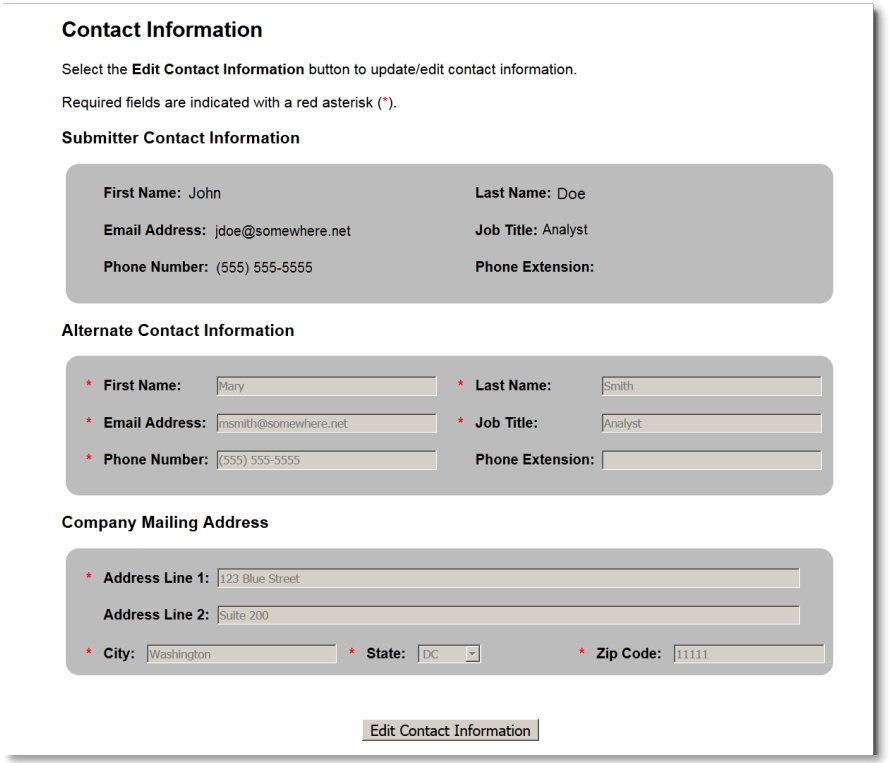
Web Form: Upload Attachments Page (Continued)

- Select the **Upload Attachments** button.
  - All uploaded documents for this Reconsideration Nickname will appear in a table at the bottom of the page.
  - Select the **Action** link (**View**, **Edit**, or **Delete**) next to the document name you would like to view, edit, or delete.
- Repeat process for each document you want to upload.
- Select the **Save & Return** button to save your updates and return to the **Summary** page.

Uploaded documents must **NOT** contain any PHI or PII. Documents containing PHI or PII will be deleted and not considered as part of the Reconsideration Request.

Web Form: Summary Page

- Review that the Contact Information listed is correct.
  - Select the **Edit Contact Information** button to make corrections.



Contact Information

Select the **Edit Contact Information** button to update/edit contact information.

Required fields are indicated with a red asterisk (*).

Submitter Contact Information

First Name: John	**Last Name:** Doe
Email Address: jdoe@somewhere.net	**Job Title:** Analyst
Phone Number: (555) 555-5555	**Phone Extension:**

Alternate Contact Information

* **First Name:** Mary	* **Last Name:** Smith
* **Email Address:** msmith@somewhere.net	* **Job Title:** Analyst
* **Phone Number:** (555) 555-5555	**Phone Extension:**

Company Mailing Address

* **Address Line 1:** 123 Blue Street

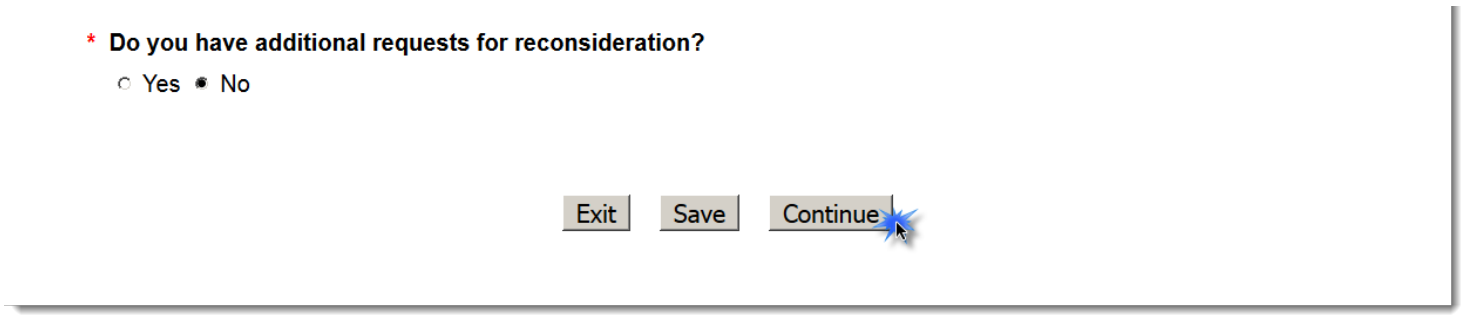
Address Line 2: Suite 200

* **City:** Washington * **State:** DC * **Zip Code:** 11111

Edit Contact Information

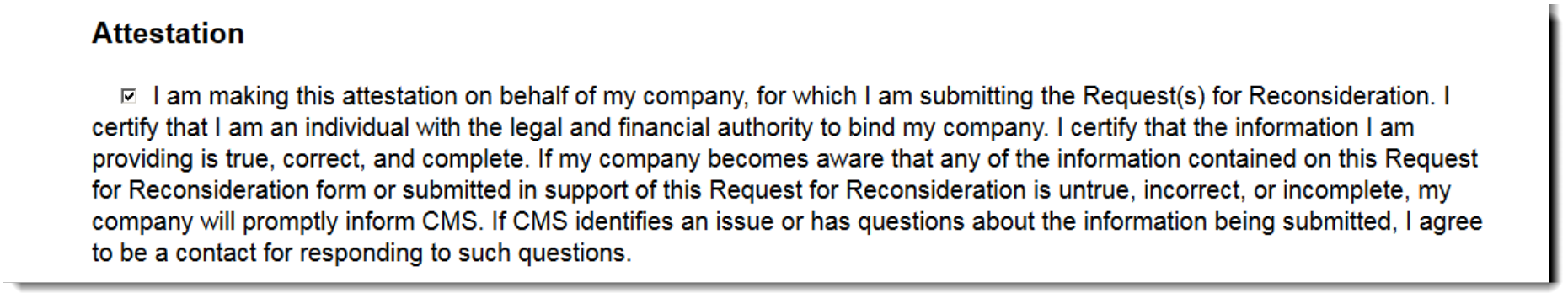
Web Form: Summary Page (Continued)

- Select **Yes** or **No** in response to the question, “Do you have additional requests for reconsideration?”
  - If **Yes** is selected, the form navigates to the **Requesting Reconsideration Options** page.
  - If **No** is selected, the form navigates to the **Attester Details** page.



Web Form: Attester Details Page

- Thoroughly review the Attestation statement in its entirety.
- Select the check box next to the attestation statement to indicate agreement.

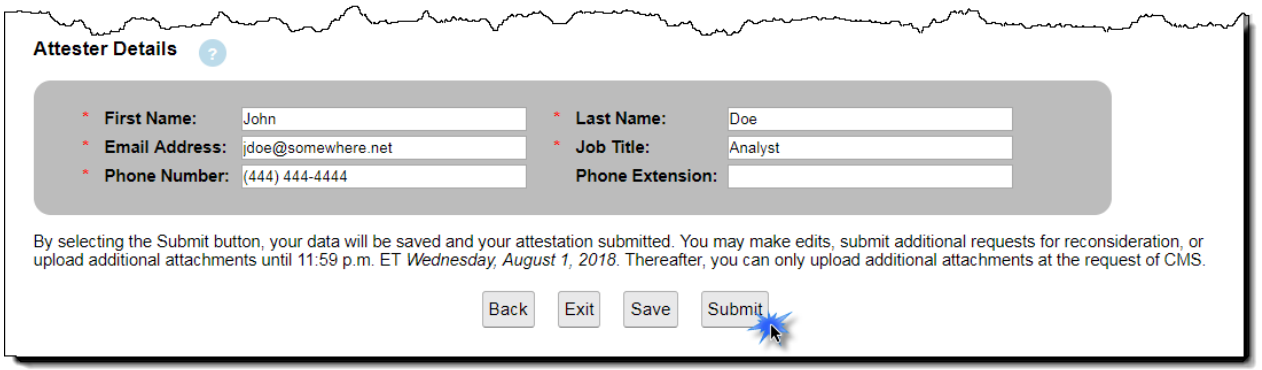


Attestation

☑ I am making this attestation on behalf of my company, for which I am submitting the Request(s) for Reconsideration. I certify that I am an individual with the legal and financial authority to bind my company. I certify that the information I am providing is true, correct, and complete. If my company becomes aware that any of the information contained on this Request for Reconsideration form or submitted in support of this Request for Reconsideration is untrue, incorrect, or incomplete, my company will promptly inform CMS. If CMS identifies an issue or has questions about the information being submitted, I agree to be a contact for responding to such questions.

Web Form: Attester Details Page (Continued)

- Complete the **Attester Details** section with the following information:
  - First Name
  - Last Name
  - Email Address
  - Job Title
  - Phone Number
  - Phone Extension (optional)



- Select the **Submit** button to save your data and submit your data and attestation for Request(s) for Reconsideration.

NOTE

The individual providing the attestation must be someone with the authority to legally and financially bind the company.

Web Form: Confirmation Page

- An acknowledgement email is sent from ACAfinancialappeals@cms.hhs.gov to the email addresses in the **Contact Information** and **Attester Details** sections of the web form.
- Select the **PDF** button to print/save the submission for your records.
  - The PDF is the formal confirmation of attestation and submitted Reconsideration Request(s).
  - Include the Reconsideration ID that is assigned and included in the PDF confirmation in any questions sent to ACAfinancialappeals@cms.hhs.gov.
- Select the **Exit** button to exit the web form.

It is recommended that you print and save a copy of the Confirmation information for your records.

Determination of the Request for Reconsideration

- In reviewing the reconsideration request, CMS will review:
  - Any prior discrepancy reports;
  - The payment or charge determination;
  - The evidence and findings upon which the payment or charge determination was based;
  - Any additional documentary evidence submitted by the issuer; and
  - Other evidence that is relevant to deciding the reconsideration (the issuer will be provided an opportunity to review and rebut such evidence).

Request for Reconsideration: Burden of Proof

- An issuer must prove its case by a preponderance of the evidence with respect to issues of fact.

Issuing a Reconsideration Decision

- Once a decision has been made, CMS will send the company a “Reconsideration Decision” letter.
  - The letter will set forth the decision and explain whether any payment or charge adjustment is required.
  - The letter will also provide information on how the issuer can request an informal hearing before a CMS Hearing Office if dissatisfied with the Reconsideration Decision.

Interest

- If an issuer requests reconsideration of a RA charge amount, the issuer should pay the full amount of the charge despite the dispute.

If	Then
An issuer appeals a RA charge amount and fails to pay the charge in the 30-day timeframe required under 45 CFR 153.610(e),	• Interest will accrue on the debt. • The issuer will owe the entire charge amount plus interest on the debt **if** the issuer is unsuccessful in the appeal.
An issuer appeals a RA charge and pays the RA charge within the 30-day timeframe,	• No interest will accrue. • CMS will refund amounts in accordance with the decision **if** the issuer is successful in the appeal.

Informal Hearing Before CMS Hearing Officer

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Informal Hearing Before a CMS Hearing Officer

- Upon receipt of a Reconsideration Decision, issuers have the right to request an informal hearing before a CMS Hearing Officer within 30 calendar days.
- The process for requesting an informal hearing before a CMS Hearing Officer will be set forth in the Reconsideration Decision.
- The CMS Hearing Officer will only review the documentary evidence provided by the parties and the record that was before CMS when the Reconsideration Decision was made.

Informal Hearing Before a CMS Hearing Officer (Continued)

- Both parties may submit a statement of support for its respective position.
- Testimony and evidence that was not presented with the reconsideration request will not be accepted.
- An issuer may be represented by counsel and must prove its case by clear and convincing evidence with respect to issues of fact.

Informal Hearing Decision

- After an informal hearing (if requested), the CMS Hearing Officer will render a decision.
- The decision is final and binding, subject to the results of the discretionary CMS Administrator Review process (if applicable).

CMS Administrator Review
(at the discretion of the CMS Administrator)

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CMS Administrator Review

- After the CMS Hearing Officer renders a decision:
  - Issuers may appeal an unfavorable decision to the CMS Administrator within 15 calendar days; or
  - CMS may appeal an unfavorable decision to the CMS Administrator within 15 calendar days.
- The CMS Administrator (or his/her delegate) may either accept the appeal for review, or decline to review the appeal.
- The appeal request must specify the findings or issues that are being challenged.

CMS Administrator Review (Continued)

- Both parties may submit a statement of support for its respective position.
- The party requesting the appeal must prove its case by clear and convincing evidence with respect to issues of fact.
- If accepted, the CMS Administrator (or his/her delegate) will review the statements of the issuer and CMS and any other information included in the record of the CMS Hearing Officer's decision.
- The CMS Administrator's determination is final and binding.

Questions?

To submit questions:

- Type your question in the text box under the “Q&A” tab located in the lower left side of your screen
  - To submit the question, click “Submit”

If you did not receive a response to your question during this webinar session, please submit your question to ACAfinancialappeals@cms.hhs.gov

Resources

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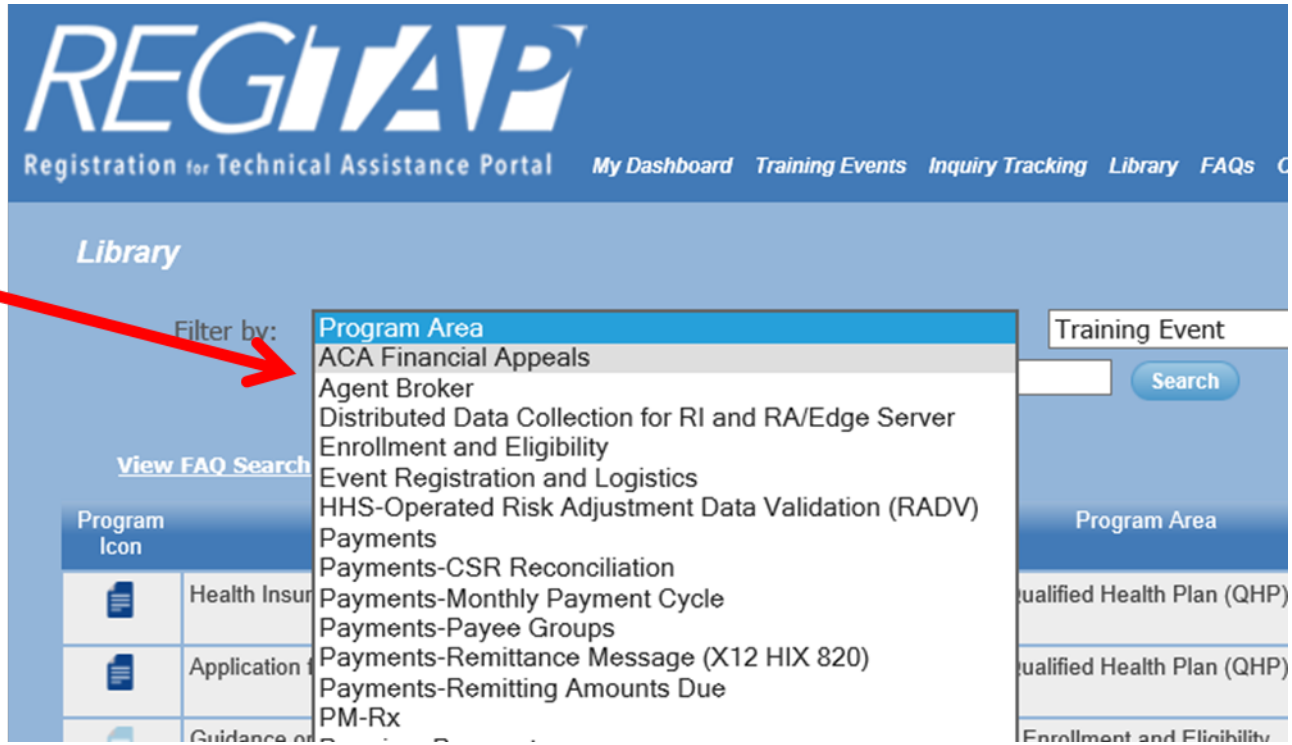
Locating Documents in REGTAP

Stakeholders can access additional documents at https://www.REGTAP.info in the REGTAP Library.

Under Program Area, select 'ACA Financial Appeals'



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Resources

Resource	Resource Link
U.S. Department of Health & Human Services (HHS)	http://www.hhs.gov/
Centers for Medicare & Medicaid Services (CMS)	http://www.cms.gov/
The Center for Consumer Information & Insurance Oversight (CCIIO) web page	http://www.cms.gov/cciio
Registration for Technical Assistance Portal (REGTAP) - presentations, FAQs	https://www.REGTAP.info

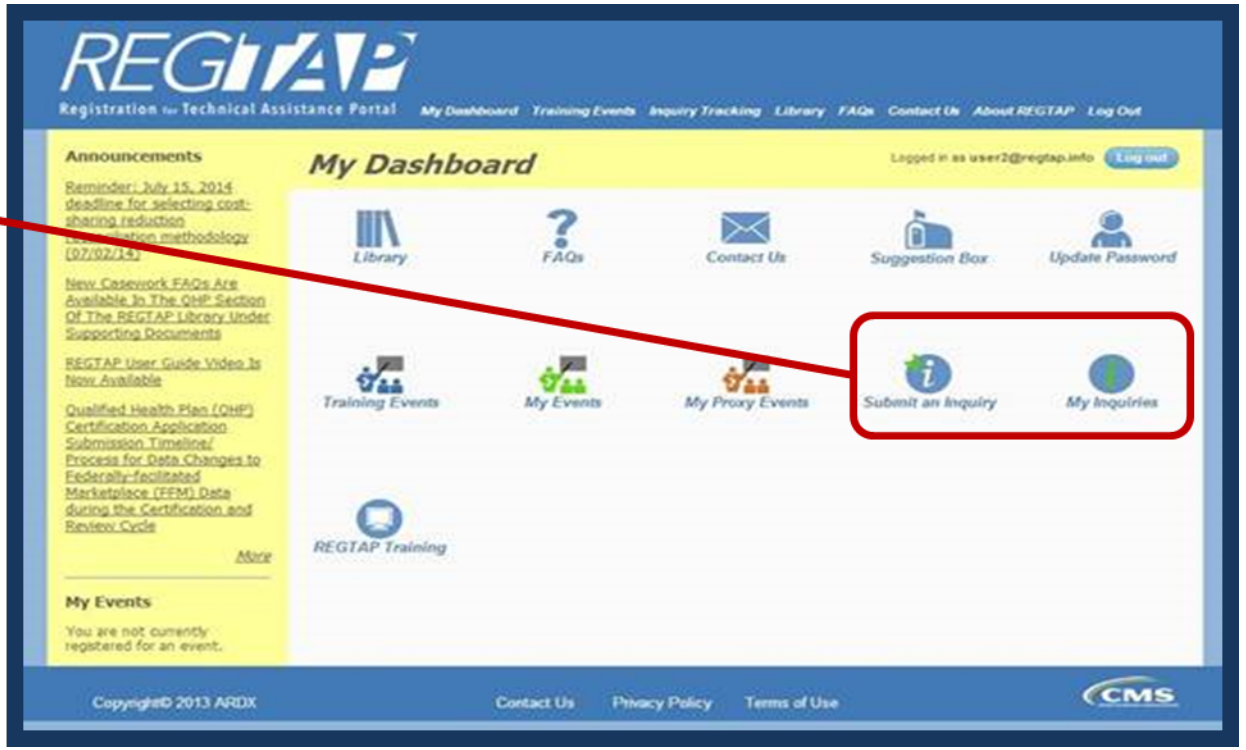
Resources (Continued)

Resource	Resource Link
Patient Protection and Affordable Care Act (ACA)	http://www.gpo.gov/fdsys/pkg/PLAW-111publ148/content-detail.html
Standards Related to Reinsurance, Risk Corridors, and Risk Adjustment under the Affordable Care Act	http://www.gpo.gov/fdsys/pkg/FR-2013-03-11/pdf/2013-04902.pdf
HHS Notice of Benefit and Payment Parameters for 2014 and Amendments to the HHS Notice of Benefit and Payment Parameters for 2014	http://www.gpo.gov/fdsys/pkg/FR-2013-03-11/pdf/2013-04902.pdf
HHS Notice of Benefit and Payment Parameters for 2015	http://www.gpo.gov/fdsys/pkg/FR-2014-03-11/pdf/2014-05052.pdf
HHS Notice of Benefit and Payment Parameters for 2016	http://www.gpo.gov/fdsys/pkg/FR-2015-02-27/pdf/2015-03751.pdf
HHS Notice of Benefit and Payment Parameters for 2017	https://www.gpo.gov/fdsys/pkg/FR-2016-03-08/pdf/2016-04439.pdf
HHS Notice of Benefit and Payment Parameters for 2018	https://www.gpo.gov/fdsys/pkg/FR-2016-12-22/pdf/2016-30433.pdf
HHS Notice of Benefit and Payment Parameters for 2019	https://www.gpo.gov/fdsys/pkg/FR-2017-11-02/pdf/2017-23599.pdf

Inquiry Tracking and Management System (ITMS)

Stakeholders can submit inquiries to ITMS at https://www.REGTAP.info

Select 'Submit an Inquiry' from My Dashboard



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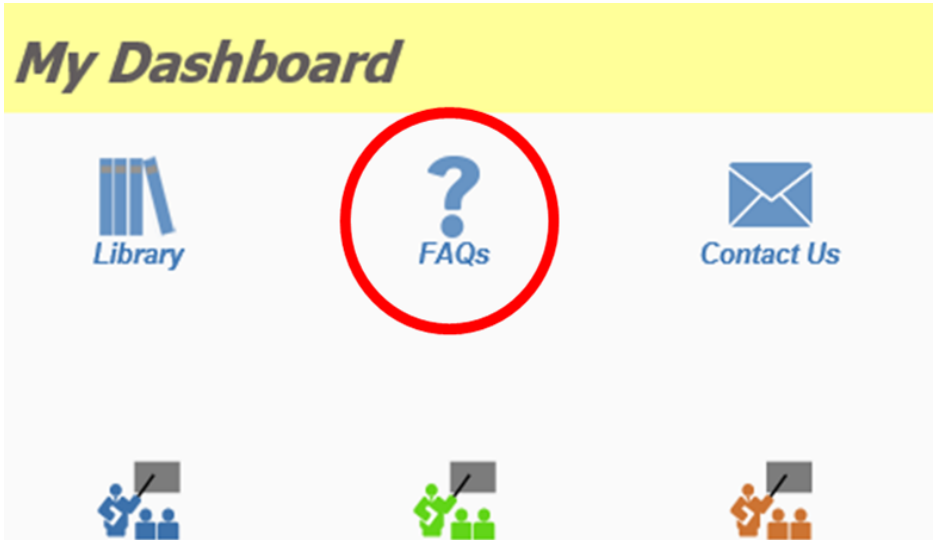
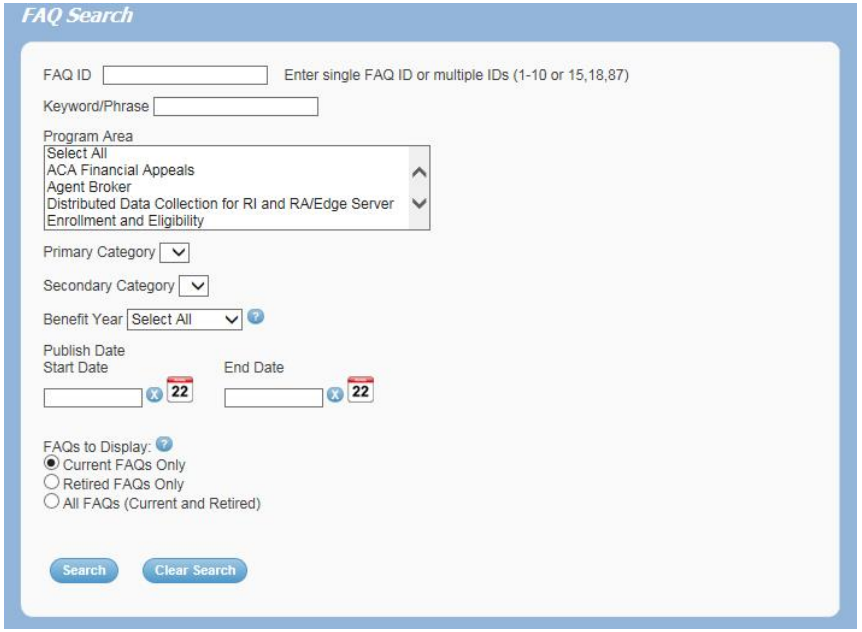
FAQ Database on REGTAP



The FAQ Database allows users to search FAQs by FAQ ID, Keyword/Phrase, Program Area, Primary and Secondary Categories, Benefit Year, Retired and Current FAQs and Publish Date.



FAQ Database is available at https://www.regtap.info/

Closing Remarks