Administrative Appeals Process for Reconciliation of the Cost-Sharing Reduction Portion of Advance Payments for the 2016 Benefit Year

September 12 & 14, 2017

Health Insurance Marketplace Program Training Series

CMS
CENTERS FOR MEDICARE & MEDICAID SERVICES

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Agenda

- Session Guidelines
- Intended Audience
- Purpose
- Stages of the Appeals Process
- Request for Reconsideration
- Submitting a Cost-sharing Reduction Reconciliation 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 content, please submit inquiries to: ACAfinancialappeals@cms.hhs.gov.
- For questions regarding logistics and registration, please contact the Registrar at: (800) 257-9520.

Intended Audience

- Qualified Health Plan issuers, including their legal counsel, who participated in reconciliation of the cost-sharing reduction portion of advance payments for the 2016 benefit year and prior year restatements (CSR Reconciliation), and the subsequent discrepancy process.

Purpose

- To describe the administrative appeals procedures set forth in 45 CFR 156.1220 related to CSR reconciliation for the 2016 benefit year and prior year restatements.
- To set forth the process for requesting reconsideration related to the CSR reconciliation for the 2016 benefit year and prior year restatements.

Stages of the Appeals Process

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

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 CSR reconciliation methodology.

Timeliness of Reconsideration Requests

- Issuers must file the request for reconsideration of the amount of a reconciliation payment or charge for CSRs for a benefit year within **60 calendar days** of the date of the CSR reconciliation discrepancy resolution decision.

- **As such, the deadline to request reconsideration for the 2016 benefit year and prior year restatements is 11:59 p.m. ET on Tuesday, October 31, 2017.**

CSR Reconciliation – Discrepancy Resolution Process Guidance

- On June 28, 2017, CMS released technical specifications on the discrepancy resolution process issuers should follow if they have a CSR reconciliation discrepancy to report.
- The technical specifications are available on the CCIIO website:

  https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/CSR-Reconciliation-2016-Benefit-Year-and-Prior.pdf
- On July 10 & 12, 2017, CMS held webinars to review the CSR Reconciliation Discrepancy Resolution Process.
  - The webinar slides, ***Cost-sharing Reduction (CSR) Reconciliation Discrepancy Process Overview for Benefit Year 2016 and Prior Year Restatements***, are available in the Registration for Technical Assistance Portal (REGTAP) Library.

CSR Reconciliation – Discrepancy Resolution Process Guidance (continued)

- As stated previously, in accordance with §156.1220(a)(3)(v), issuers have 60 calendar days from the date of the CSR reconciliation discrepancy resolution decision to file an appeal.
- Accordingly, only issuers that filed a discrepancy for a HIOS ID and benefit year are permitted to file a request for reconsideration for the corresponding HIOS ID and benefit year.

CSR Reconciliation – Discrepancy Resolution Process Guidance (continued)

- CSR reconciliation discrepancy resolution decisions were sent to issuers on September 1, 2017.
- The Request for Reconsideration web form opens on September 15, 2017.
  - If issuers want to file a request for reconsideration and try to access the form before September 15, 2017, the form will instruct the issuer to email CMS at ACAfinancialappeals@cms.hhs.gov with a subject line of "CSR Reconciliation Request for Reconsideration." You may email CMS to let us know of your intention to file a request for reconsideration. We will ask you to complete the web form once it becomes available.
- Reminder: Issuers have until **11:59 p.m. ET on October 31, 2017** to file a request for reconsideration.

CSR Reconciliation Benefit Year 2016 Restatements

- If issuers have identified new or corrected information for benefit year 2016 since the discrepancy window closed, pursuant to the *Manual for Reconciliation of the CSR Component of Advance Payments for Benefit Year 2016*, issuers may recalculate and re-adjudicate all claims on a policy and submit such additional data during the 2017 CSR reconciliation reporting year cycle, in the Spring of 2018.

Important Note: Interest

- If an issuer requests reconsideration of a CSR reconciliation charge amount, the issuer should pay the full amount of the charge despite the dispute.
  - If an issuer appeals a CSR reconciliation charge amount and fails to pay the charge within 30 days, interest will accrue on the debt.
    - If the issuer is unsuccessful in the appeal and has not paid the charge amount, the issuer will owe the entire charge amount plus interest on the debt.
  - If an issuer appeals a CSR reconciliation charge and pays the CSR reconciliation charge within 30 days, no interest will accrue.
    - If the issuer is successful in the appeal, CMS will refund amounts in accordance with the appeal decision.

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.

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; and
  - It meets the materiality threshold.

CSR Reconciliation Request for Reconsideration Web Form

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CSR Reconciliation Request for Reconsideration Web Form

- Issuers must complete a request for reconsideration web form for the CSR Reconciliation program.



We note that any request for reconsideration **cannot** include any Personally Identifiable Information (PII) or Protected Health Information (PHI).

- The reconsideration web form will be available on Friday, September 15, 2017.
- The *CSR Reconciliation Request for Reconsideration Reporting Guide* will be available on REGTAP and from the web form.

Web Form: Important Notes

- The web form will use the Discrepancy Point of Contact (POC) email address that your company indicated in its CSR reconciliation discrepancy file to validate the authority of the individual to submit a request for reconsideration for the selected HIOS ID(s) and benefit year(s). The web form may be completed by a person other than the Discrepancy POC; however, that individual must use the Discrepancy POC email address to gain access to the web form.
- To ensure that the reconsideration being filed is for a HIOS ID and benefit year for which the issuer filed a discrepancy, CMS will validate the HIOS ID(s) and benefit years against the company's Discrepancy POC email address.

Web Form: Important Notes (continued)

- A separate web form must be completed for each benefit year (2016 and prior year restatements, if applicable).
- When completing the web form, the issuer will be asked to submit the CSR amount the issuer is appealing.
- On the same page of the web form, the unapproved disputed CSR amount will be pre-populated.
  - The unapproved disputed CSR amount displayed is the sum of CSR Amount Disputed for records in the Discrepancy Resolution Decision with an invalid Exchange-assigned Subscriber ID and/or QHP ID.

Web Form: Important Notes (continued)

- In accordance with §156.1220 (a)(4)(ii), the CSR amount appealed must be less than or equal to the unapproved CSR disputed amount.
- If an issuer tries to appeal an amount that is greater than the unapproved disputed CSR amount, the appeal may not be considered without prior approval from CMS.
  - Please email CSRreconquestions@cms.hhs.gov with your request and a justification.

Accessing the ACA Request for Reconsideration Web Page to Access the Web Form

- CMS created the ACA Request for Reconsideration web page with multiple links for issuers to access reconsideration request web forms, including the CSR Reconciliation Reconsideration web form.
- The web page link will be emailed to the Discrepancy POC and posted to the CCIIO website after the form is available.
  - If you have any questions regarding the location of the web form, please email ACAfinancialappeals@cms.hhs.gov.
- As stated previously, all request(s) for reconsideration **must** be submitted through the web form.

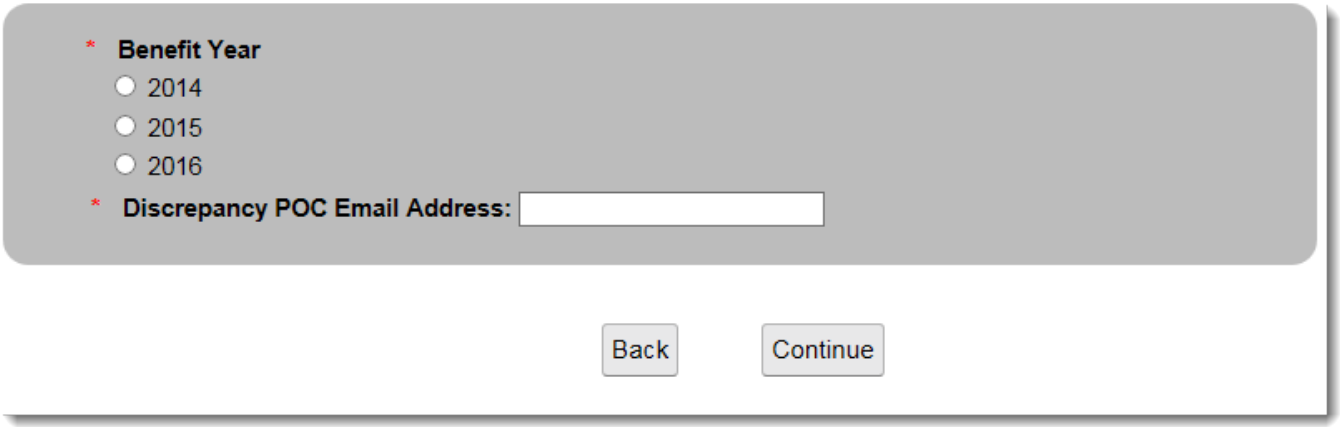


The web form must be completed in a single session. You will not be able to save entered information.

Web Form: Welcome Page

Welcome Page

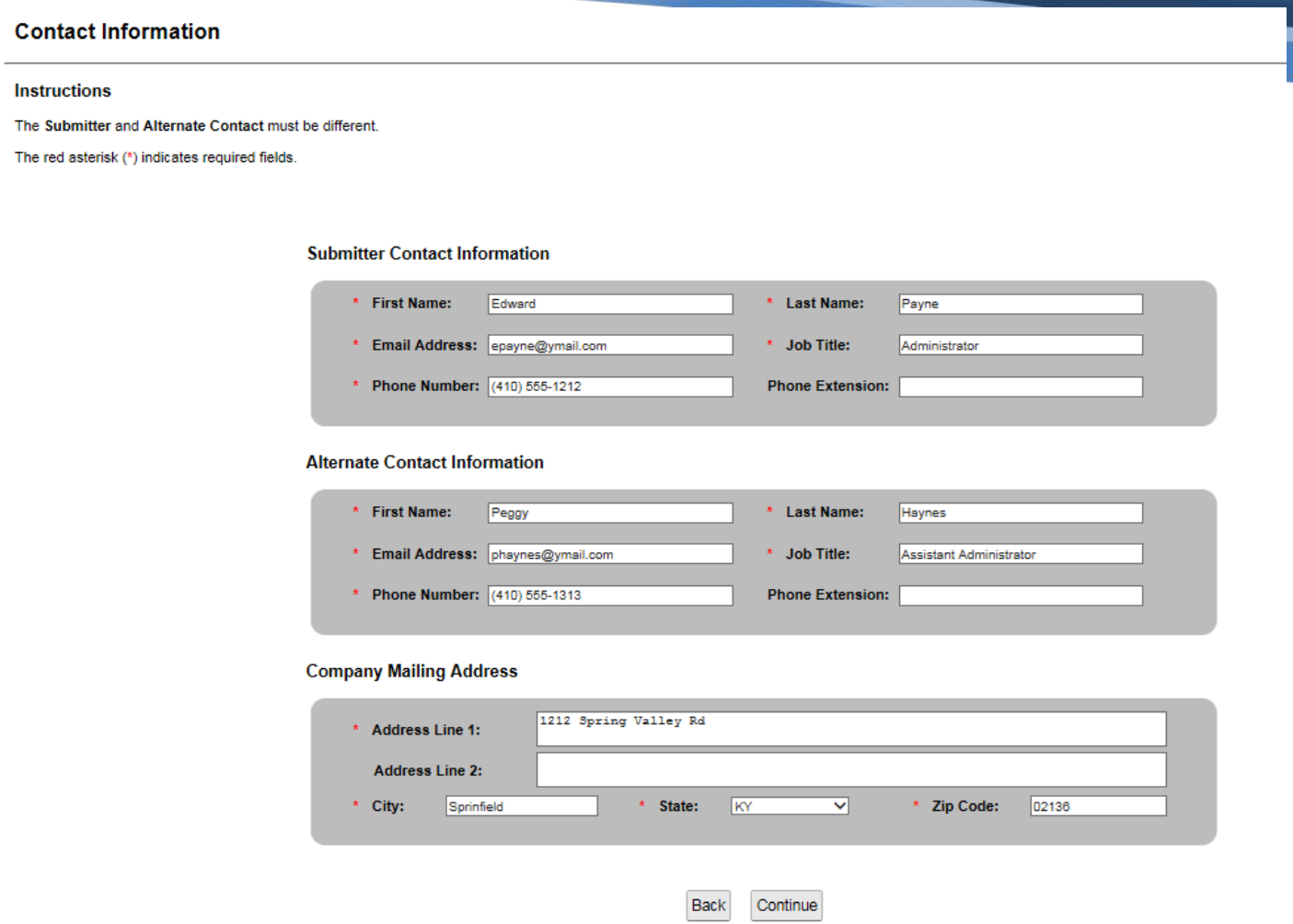
- Select the benefit year for which you are requesting reconsideration for CSR Reconciliation.
- Enter the Discrepancy POC Email Address
- Select the **Continue** button.



Web Form: Contact Information Page

- You will be directed to the Contact Information page once you have selected a benefit year and entered the Discrepancy POC email address.
- Enter a Submitter Contact, Alternate Contact, and the company mailing address.
  - The Submitter and Alternate Contact information must not be the same individual.
- Select the **Continue** button.

Web Form: Contact Information Page (continued)

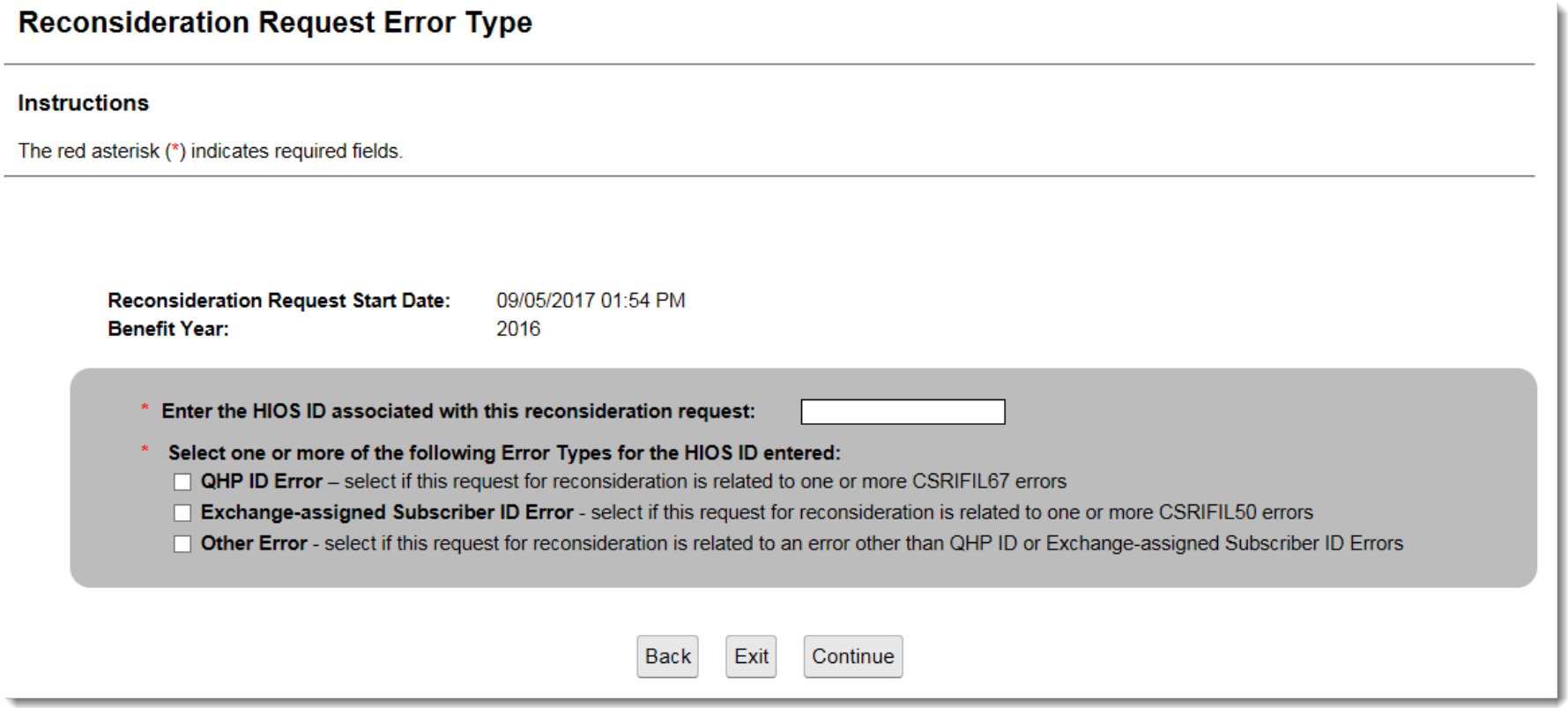


Web Form: Reconsideration Request Error Type Page

Reconsideration Request Error Type Page

- Enter the HIOS ID associated with this reconsideration request.
- Select all the Reconsideration Error Type check boxes that apply for this HIOS ID:
  - QHP ID Error
  - Exchange-assigned Subscriber ID Error
  - Other Error
- Select the **Continue** button.
  - The form navigates to selected error type page. If more than one (1) error type is selected, the web form proceeds to the first error type selection.

Web Form: Reconsideration Request Error Type Page (continued)



Web Form: QHP ID & Exchange-assigned Subscriber ID Error Information Pages

The following instructions apply to both pages:

QHP ID Error Information Page

Exchange-assigned Subscriber ID Error Information Page

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

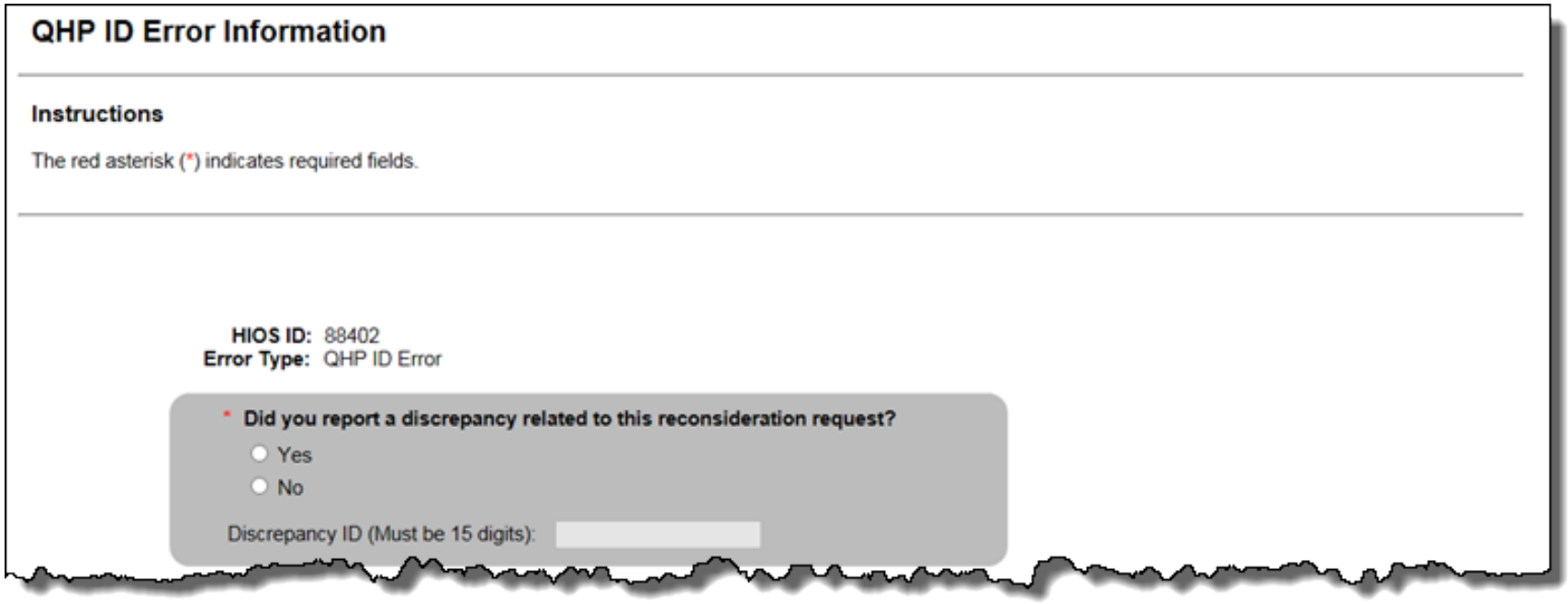


Continue to the next part of the QHP ID Error Information page.

No

Continue to the next part of the Exchange-assigned Subscriber ID Error Information page.

Web Form: QHP ID & Exchange-assigned Subscriber ID Error Information Pages (continued)



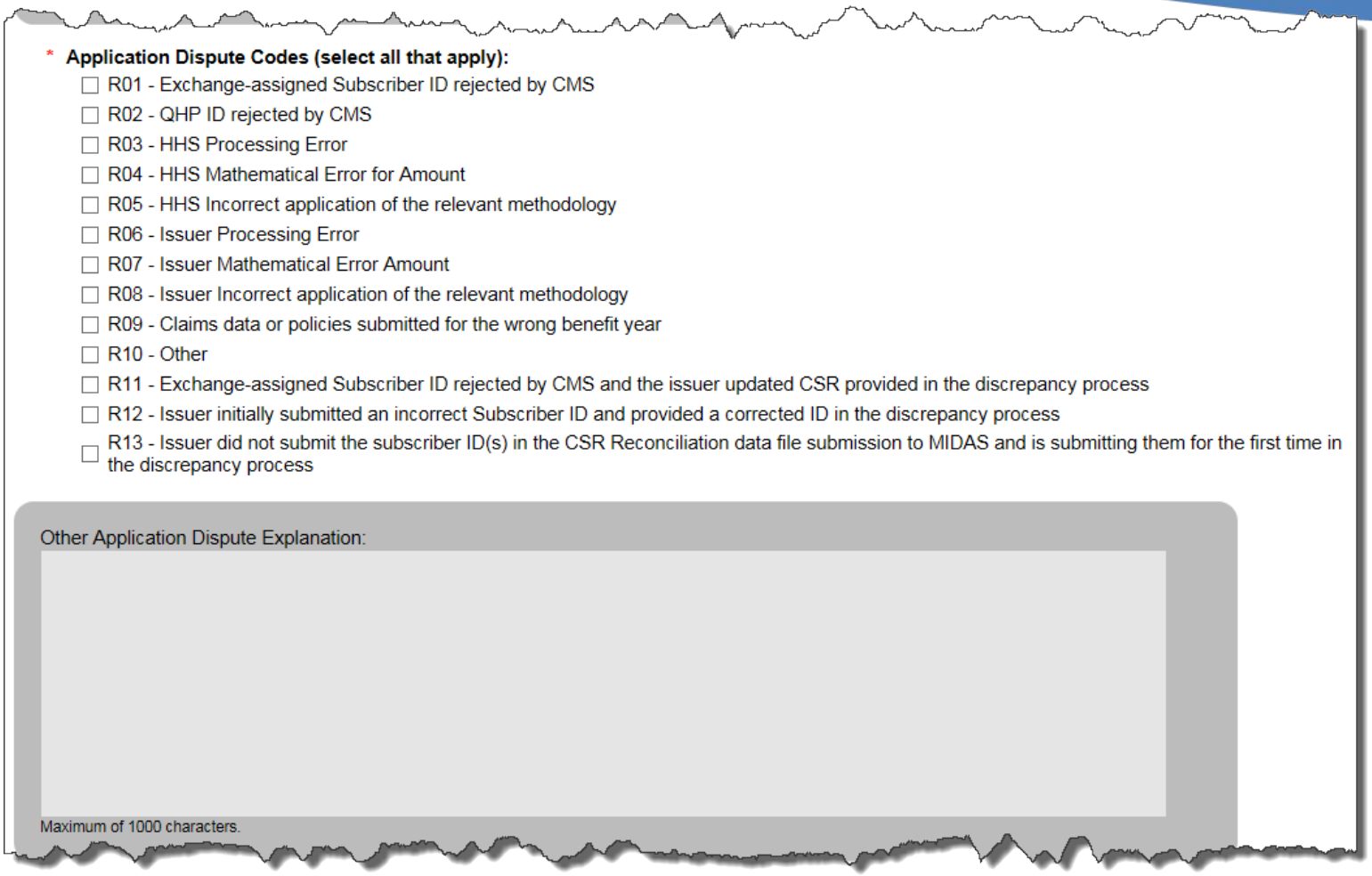
Web Form: QHP ID & Exchange-assigned Subscriber ID Error Information Pages (continued)

QHP ID Error Information Page

Exchange-assigned Subscriber ID Error Information Page

- Select the check box for each **Application Dispute Code** that applies to the associated HIOS ID.
  - If 'Other' is selected, provide a brief explanation of the application dispute in the **Other Application Dispute Explanation** field.

Web Form: QHP ID & Exchange-assigned Subscriber ID Error Information Pages (continued)



* **Application Dispute Codes (select all that apply):**

- ☐ R01 - Exchange-assigned Subscriber ID rejected by CMS
- ☐ R02 - QHP ID rejected by CMS
- ☐ R03 - HHS Processing Error
- ☐ R04 - HHS Mathematical Error for Amount
- ☐ R05 - HHS Incorrect application of the relevant methodology
- ☐ R06 - Issuer Processing Error
- ☐ R07 - Issuer Mathematical Error Amount
- ☐ R08 - Issuer Incorrect application of the relevant methodology
- ☐ R09 - Claims data or policies submitted for the wrong benefit year
- ☐ R10 - Other
- ☐ R11 - Exchange-assigned Subscriber ID rejected by CMS and the issuer updated CSR provided in the discrepancy process
- ☐ R12 - Issuer initially submitted an incorrect Subscriber ID and provided a corrected ID in the discrepancy process
- ☐ R13 - Issuer did not submit the subscriber ID(s) in the CSR Reconciliation data file submission to MIDAS and is submitting them for the first time in the discrepancy process

Other Application Dispute Explanation:

Maximum of 1000 characters.

Web Form: QHP ID & Exchange-assigned Subscriber ID Error Information Pages (continued)

QHP ID Error Information Page

Exchange-assigned Subscriber ID Error Information Page

Select **Yes** or **No** to the question, "Are you requesting reconsideration for all of the errors reported in the discrepancy identified above?"

Yes

Provide a brief explanation of the reconsideration request in the Reconsideration Request Explanation field.

Yes

Provide a brief explanation of the reconsideration request in the Reconsideration Request Explanation field, AND Enter the **QHP ID(s)** in the "Enter the QHP IDs" for which you are requesting reconsideration field.

No

Provide a brief explanation of the reconsideration request in the Reconsideration Request Explanation field, AND Enter **the Exchange-assigned Subscriber ID(s)** in the "Enter the Exchange Subscriber IDs" for which you are requesting reconsideration field.

NOTE

QHP IDs and Exchange Subscriber IDs must be separated by a semicolon (;).

Web Form: QHP ID & Exchange Subscriber ID Error Information Pages (continued)

- Enter the CSR amount you want to appeal in the **CSR Amount Appealed** field.
  - The unapproved Disputed CSR amount is the maximum amount the issuer is permitted to appeal.
- Select the **Continue** button.
- The web form proceeds to the Other Error Information page if you selected “Other – Error”. Otherwise, the web form proceeds to the Summary page.

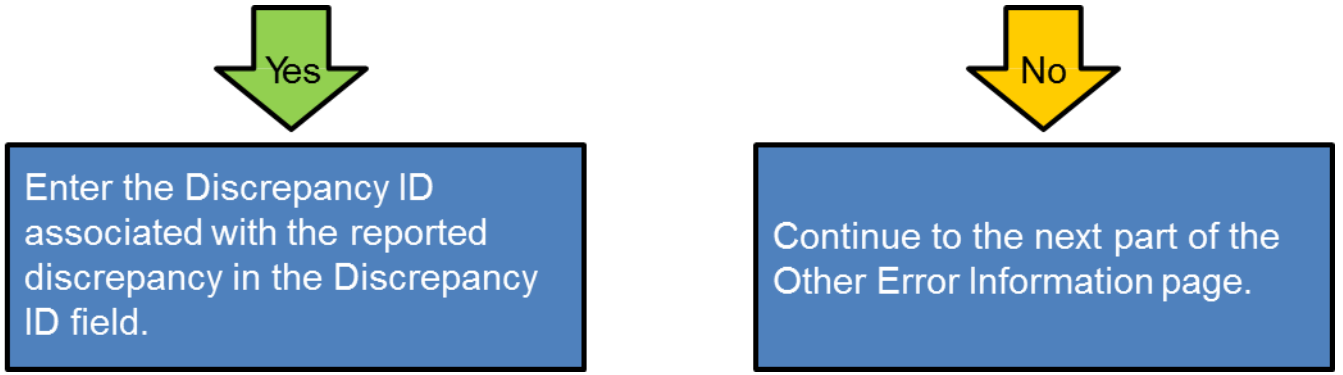


The option to attach files in support of a reconsideration request is available on the web form Summary page.

Web Form: Other Error Information Page

Other Error Information Page

- If you selected 'Other Error' as a CSR Reconciliation Reconsideration Error Type, the Other Error Information page opens.
- Select **Yes** or **No** to the question, "Did you report a discrepancy related to this Reconsideration Request?"



Web Form: Other Error Information Page (continued)

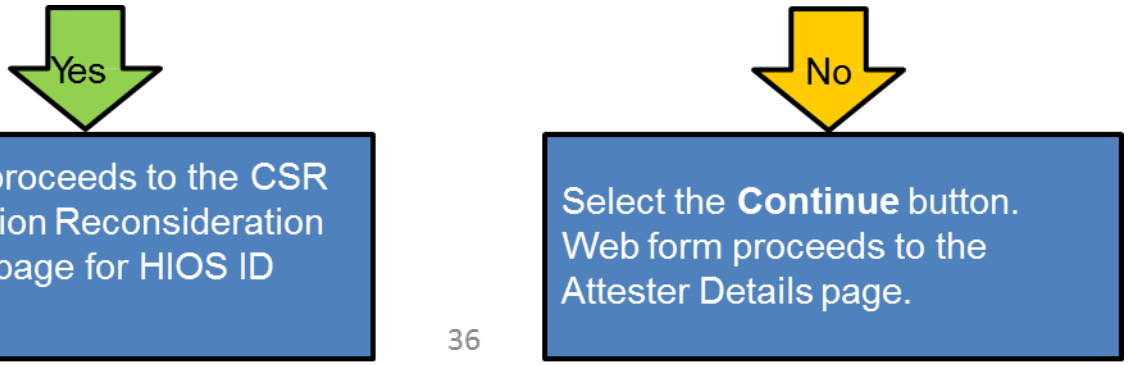
Other Error Information Page

- Select the check box for each **Application Dispute Code** that applies to the HIOS ID for which you are requesting reconsideration.
  - If you select 'Other', provide a brief explanation of the application dispute in the **Other Application Dispute Explanation** field.
- Provide a brief explanation of the reconsideration request in the **Reconsideration Request Explanation** field.
- Enter the CSR amount you want to appeal in the **CSR Amount Appealed** field.
- Select the **Continue** button.

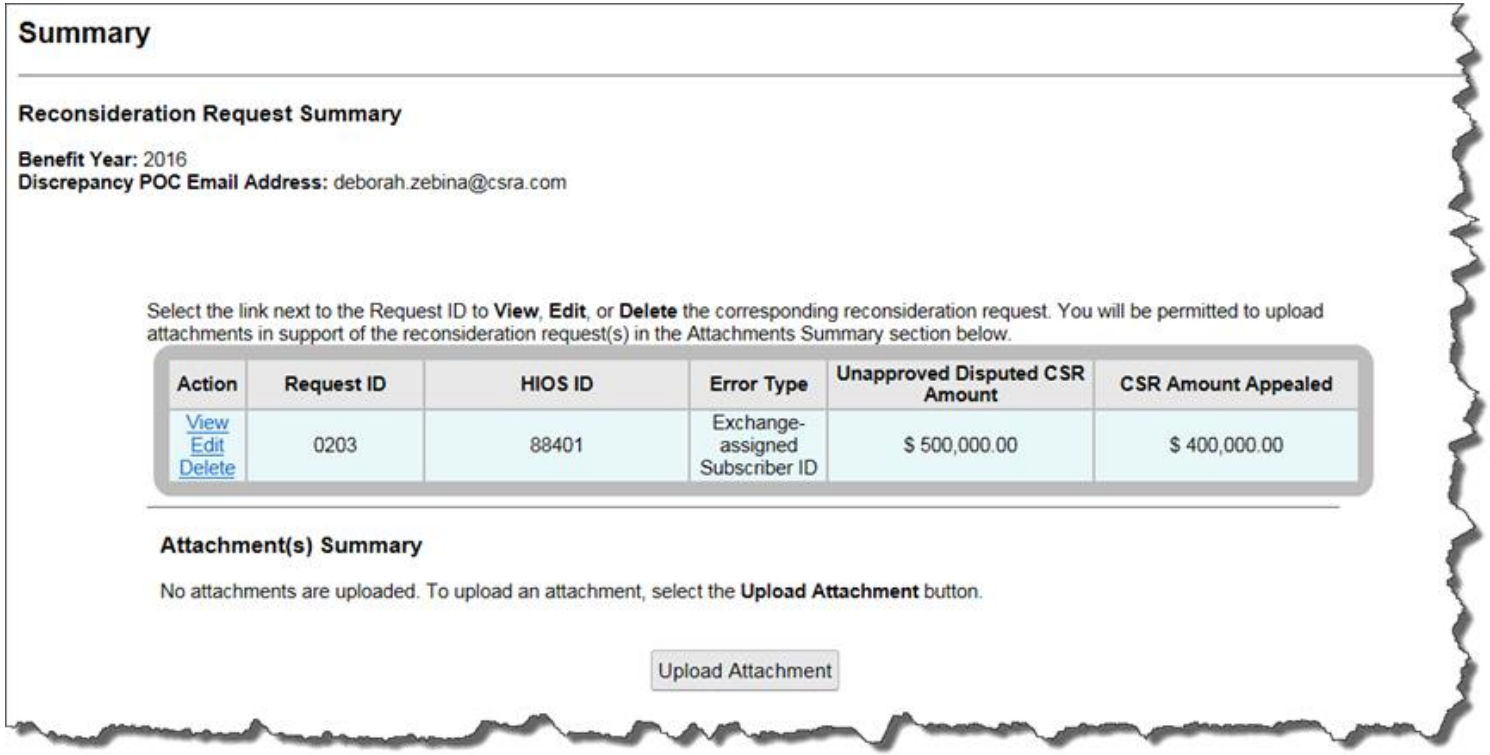
Web Form: Reconsideration Request Summary Page

Reconsideration Request Summary Page

- Review the **Reconsideration Request Summary** section.
  - Confirm you entered accurate reconsideration request information.
  - Confirm HIOS ID(s) entered correctly.
- Review and attach pertinent attachments in the **Attachments Summary** section, if applicable.
- Review that the **Contact Information** listed is correct.
  - Select the **Edit Contact Information** button to make corrections.
- Select **Yes** or **No** in response to the question, "Do you have additional requests for reconsideration for this benefit year?"



Web Form: Reconsideration Request Summary Page (continued)



Summary

Reconsideration Request Summary

Benefit Year: 2016
Discrepancy POC Email Address: deborah.zebina@csra.com

Select the link next to the Request ID to **View**, **Edit**, or **Delete** the corresponding reconsideration request. You will be permitted to upload attachments in support of the reconsideration request(s) in the Attachments Summary section below.

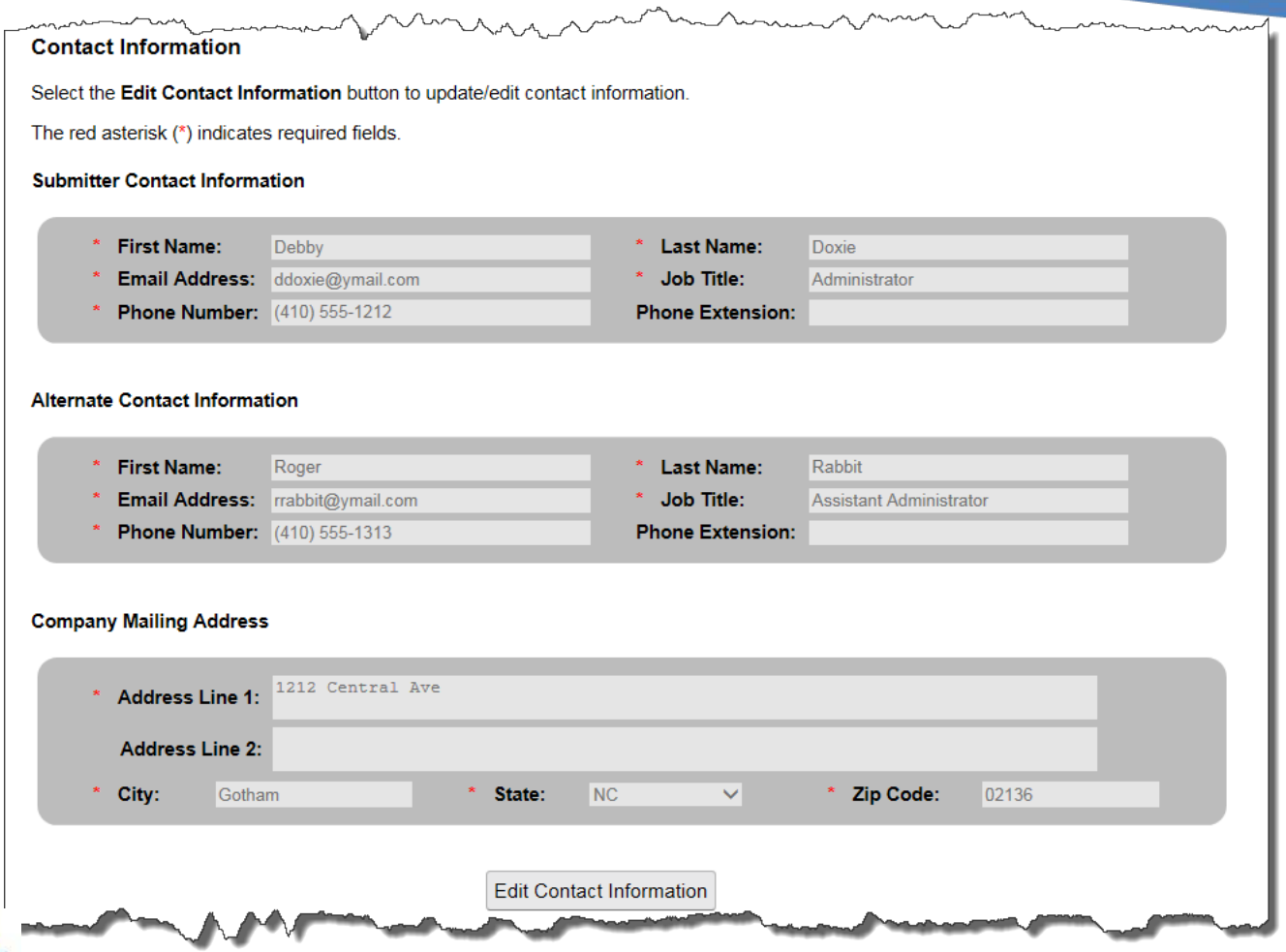
Action	Request ID	HIOS ID	Error Type	Unapproved Disputed CSR Amount	CSR Amount Appealed
View Edit Delete	0203	88401	Exchange-assigned Subscriber ID	$ 500,000.00	$ 400,000.00

Attachment(s) Summary

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

Upload Attachment

Web Form: Reconsideration Request Summary Page (continued)



Contact Information

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

The red asterisk (*) indicates required fields.

Submitter Contact Information

* **First Name:**	Debby	* **Last Name:**	Doxie
* **Email Address:**	ddoxie@ymail.com	* **Job Title:**	Administrator
* **Phone Number:**	(410) 555-1212	**Phone Extension:**	

Alternate Contact Information

* **First Name:**	Roger	* **Last Name:**	Rabbit
* **Email Address:**	rrabbit@ymail.com	* **Job Title:**	Assistant Administrator
* **Phone Number:**	(410) 555-1313	**Phone Extension:**	

Company Mailing Address

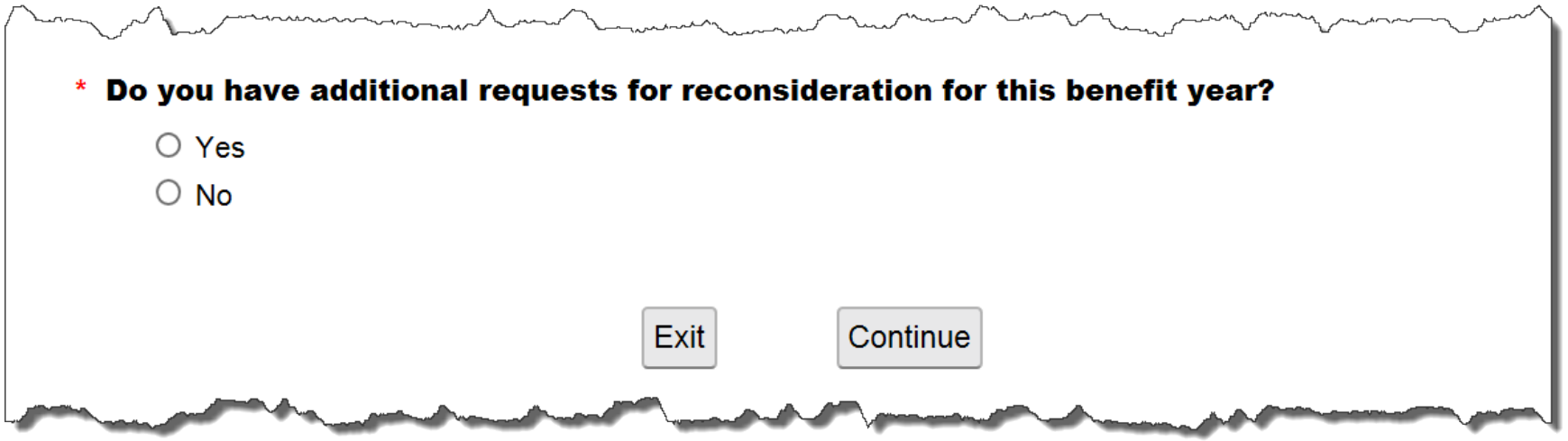
* **Address Line 1:** 1212 Central Ave

Address Line 2:

* **City:** Gotham * **State:** NC * **Zip Code:** 02136

Edit Contact Information

Web Form: Reconsideration Request Summary Page (continued)



NOTE

Selecting the 'Exit' button on the Reconsideration Request Summary page displays a popup, which notes that all session data will be lost. Select 'Cancel' to return to the Reconsideration Request Summary page.

Web Form: Attester Details

Attester Details Page

- Thoroughly review the Attestation statement in its entirety.
- Select the check box next to the attestation statement to indicate agreement.
- Complete the **Attester Details** section with the following information:
  - First Name
  - Last Name
  - Job Title
  - Email Address
  - Phone Number
  - Phone Extension (optional)



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

NOTE

The individual providing attestation must be someone who can legally and financially bind the company.

Attestation Statement

Attestation

Instructions

Prior to completing the request for reconsideration process, an individual with the authority to legally and financially bind the company must attest to the information submitted in this web form. To attest, the submitter must select the check box next to the attestation and complete the Attester Details. Please note that the individual completing the web form does not need to be the attester; however, the attester must be aware of the Request for Reconsideration submission, as they will be an individual whom CMS contacts if CMS identifies an issue or has questions.

The red asterisk (*) indicates required fields.

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 the point of contact for responding to such questions.

Web Form: Confirmation

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).
- Select the **Exit** button to exit the web form.



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

Web Form: Reconsideration Request for a Different Benefit Year

- To submit CSR Reconciliation Reconsideration request(s) for another benefit year, complete another web form by accessing the original link included in the invitation email sent to the Discrepancy POC whom the issuer indicated on its CSR reconciliation discrepancy file submission.



Determination of the Request for Reconsideration

- When 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 Officer if the issuer is dissatisfied with the Reconsideration Decision.

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.

Informal Hearing Before a CMS Hearing Officer (continued)

- 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.
- 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)

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.

CMS Administrator Review (continued)

- 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.
- 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.

CMS Administrator Review (continued)

- 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 by phone:

- Dial '* #' on your phone's keypad
- Dial '* #' to exit the phone queue

To submit questions by webinar:

- Type your question in the text box under the 'Q&A' tab.

Resources

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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

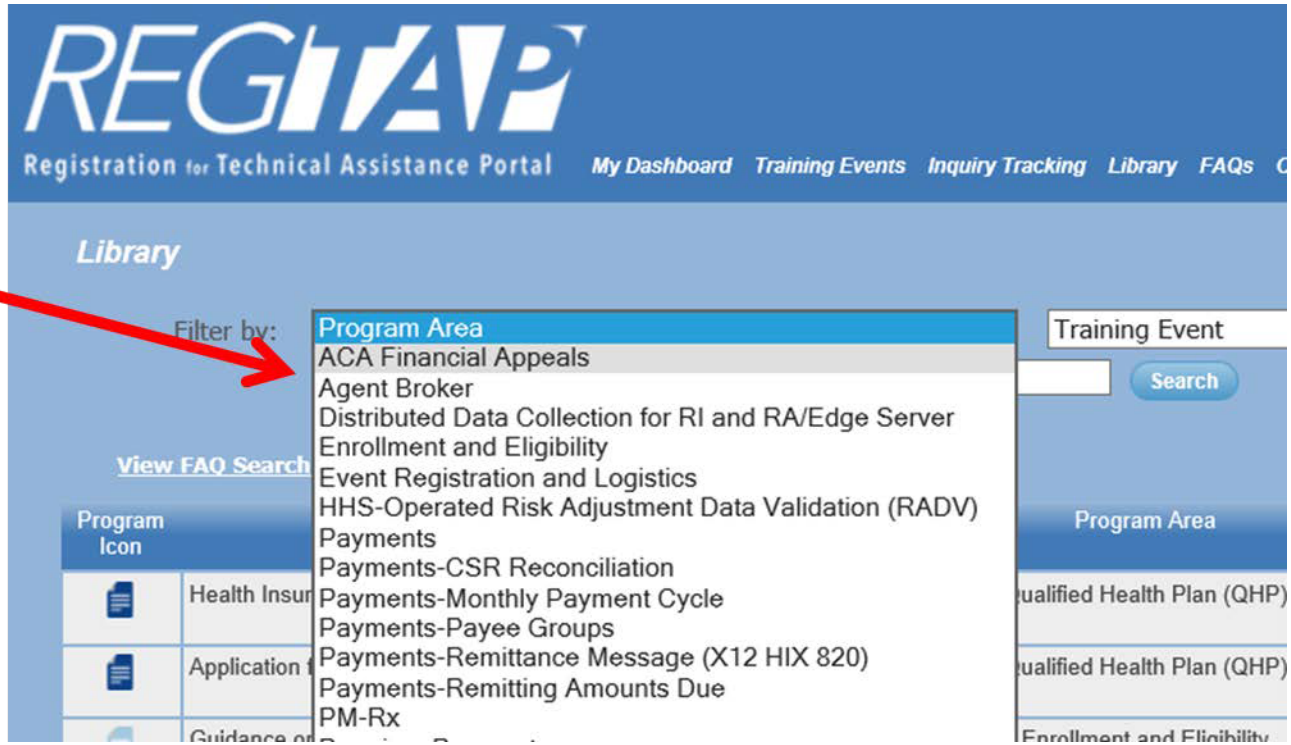
Resources (continued)

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	https://www.gpo.gov/fdsys/pkg/FR-2013-03-11/pdf/2013-04904.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

Locating Documents in REGTAP

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

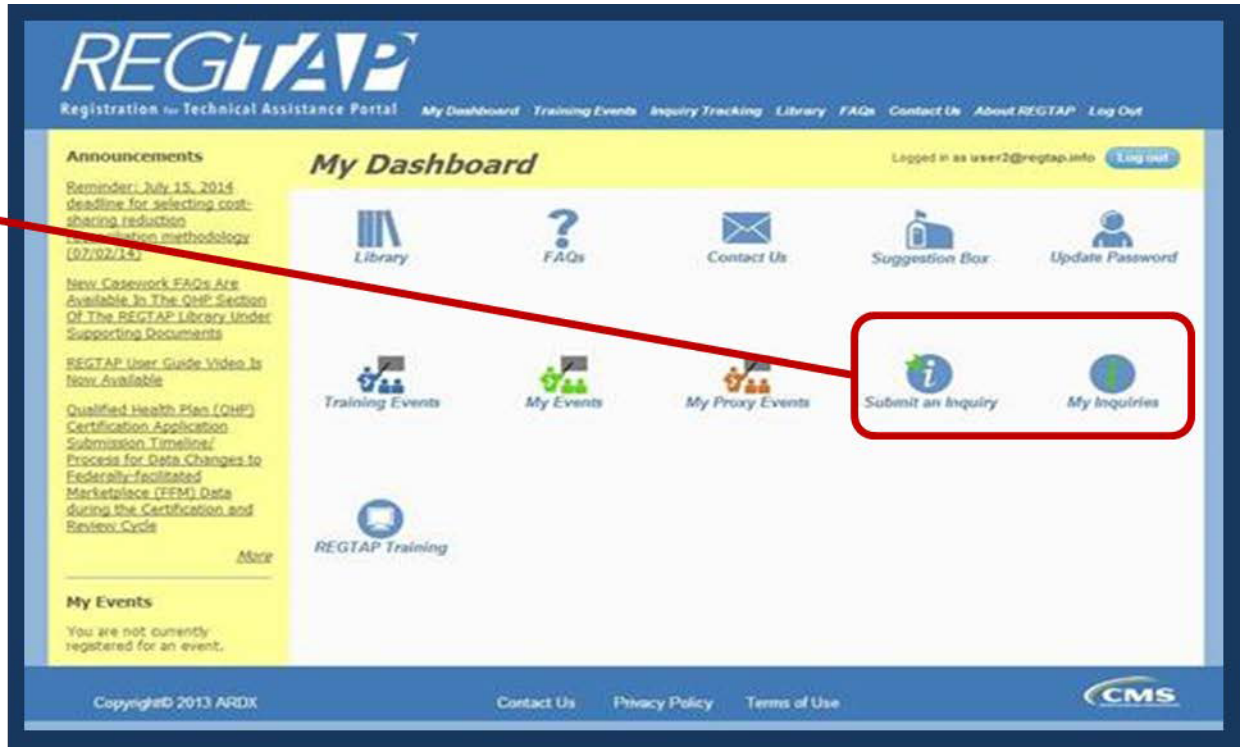
Under Program Area, select 'ACA Financial Appeals'



Inquiry Tracking and Management System (ITMS)

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

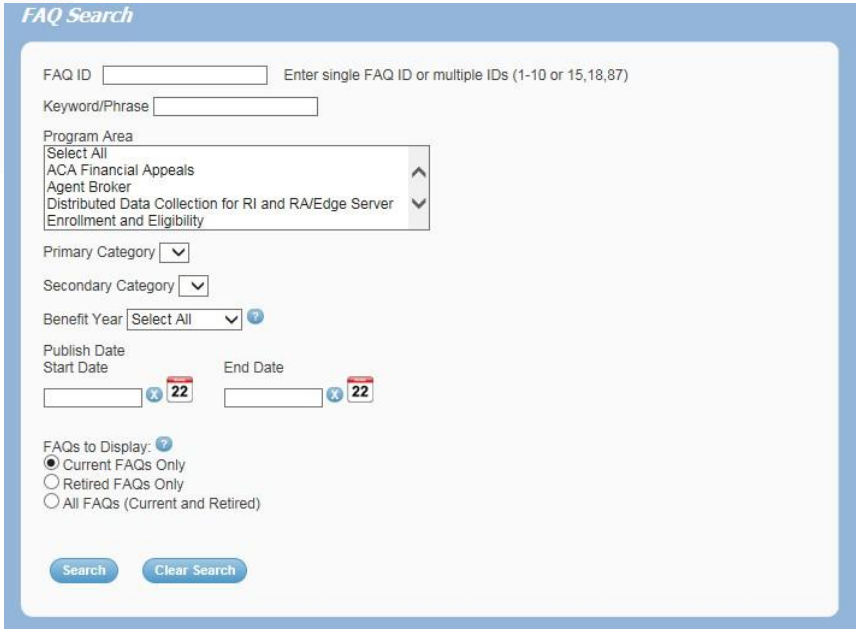
Select 'Submit an Inquiry' from My Dashboard



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

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