2016 Benefit Year Administrative Appeals Process for the Risk Corridors Program

November 14 and

November 15, 2017

2:00 p.m. – 3:30 p.m. ET

Health Insurance Marketplace Program Training Series

CMS
CENTERS FOR MEDICARE & MEDICAID SERVICES

HTTPS://WWW.REGTAP.INFO/

Agenda

- Session Guidelines
- Intended Audience
- Purpose
- Stages of the Appeals Process
- Request for Reconsideration
- Submitting a Risk Corridors 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

- Issuers of Qualified Health Plans (QHPs) who submitted Risk Corridors data for the 2016 Benefit Year
- Third Parties on behalf of issuers of QHPs

Purpose

- To describe the administrative appeals process set forth in 45 CFR 156.1220 related to the Risk Corridors program for the 2016 Benefit Year.
- To set forth, in detail, the process to request reconsideration of the 2016 Benefit Year Risk Corridors payment or charge amount through a web form.

Stages of the Appeals Process

There is a three (3)-level administrative appeals process for the Risk Corridors program:

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

HTTPS://WWW.REGTAP.INFO/

Basis for the Request for Reconsideration

An issuer may only file a request for reconsideration with respect to the amount of a risk corridors payment or charge 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 methodology.

Timeliness of Reconsideration Requests

- A reconsideration request must be filed within 30 calendar days of the date of the notification of risk corridors payments and charges for the 2016 Benefit Year.
- The notification of risk corridors payments and charges for the 2016 Benefit Year was published Monday, November 13, 2017.
- As such, the deadline to request reconsideration for risk corridors for the 2016 Benefit Year is 11:59 p.m. ET on Tuesday, December 12, 2017.

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 risk corridors 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 the request:
  - Is made on a proper basis;
  - Is submitted in a timely manner; and
  - Meets the materiality threshold.

Risk Corridors Request for Reconsideration Guidance

- In addition to this webinar, on November 14, 2017, CMS released:
  - An FAQ describing the process issuers should follow if they wish to file a risk corridors request for reconsideration.
  - A user guide setting forth the instructions to complete the Risk Corridors Request for Reconsideration Web Form.
- CMS also made available the Risk Corridors Reconsideration Web Form, located at: https://acapaymentoperations.secure.force.com/ACAReconsideration
- All of these materials are available in the REGTAP library by filtering "ACA Financial Appeals" or https://www.cms.gov/CCIIO/Programs-and-Initiatives/Premium-Stabilization-Programs/Financial-Administrative-Appeals-Process-for-Issuers/Information-and-Insurance-Oversight.html

Risk Corridors Request for Reconsideration Web Form

HTTPS://WWW.REGTAP.INFO/

Before You Begin the Risk Corridors Reconsideration Request Web Form

- Gather the following information before opening the Risk Corridors Reconsideration Request web form:

- Contact information for the Submitter, Alternate Contact, CEO Contact, and Attester
  - Name
  - Email Address
  - Job Title
  - Phone Number
- Company Mailing Address
- HIOS ID
- Company Legal Business Name (LBN)

Explanation of Request for Reconsideration

- Amount Issuer Claiming to Owe or Receive
- Published Risk Corridors Payment or Charge Amount
- Up to 10 files in support of Reconsideration Request (optional)

Risk Corridors Reconsideration Request Web Form

- Similar to prior years, for the 2016 Benefit Year, issuers must complete a Request for Reconsideration web form for the Risk Corridors program.
- CMS created the ACA Request for Reconsideration web page for issuers to access reconsideration request web forms, including the Risk Corridors Reconsideration web form.
  - The Risk Corridors Reconsideration Request Web Form is available on the ACA Request for Reconsideration web page, located at: https://acapaymentoperations.secure.force.com/ACAReconsideration
  - The Risk Corridors Request for Reconsideration Guide for the 2016 Benefit Year can be downloaded from REGTAP, the CCIIO website and from the web form.

Accessing the Web Form

The Risk Corridors Request for Reconsideration Web Form became available on Monday, November 13, 2017.

- If you have any questions regarding the location of the web form, please email ACAfinancialappeals@cms.hhs.gov.

All requests for reconsideration related to Risk Corridors **must** be submitted through the web form.



Requests for reconsideration **must not** include any Personally Identifiable Information (PII) or Protected Health Information (PHI).

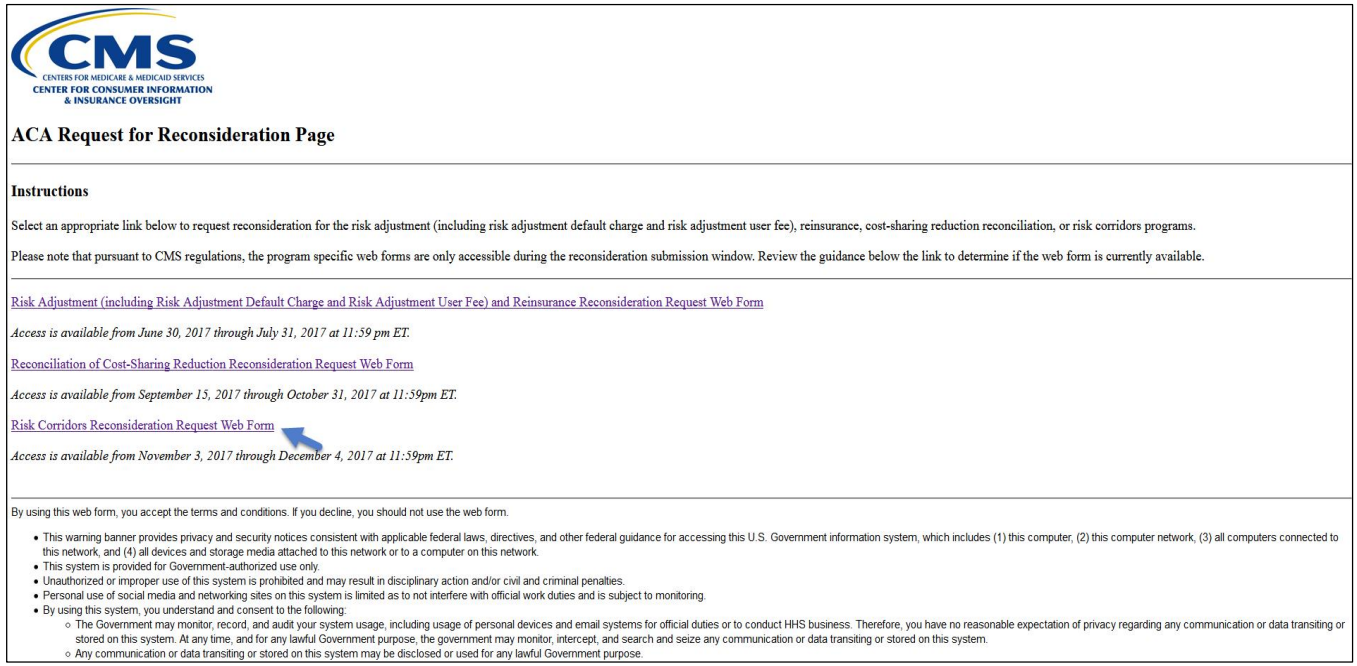


The web form **will not** allow you to save and return to a previous session.

ACA Request for Reconsideration Web Page

Reconsideration Request Web Page

- Select the link for Risk Corridors Reconsideration Request Web Form.



CMS
CENTERS FOR MEDICARE & MEDICAID SERVICES
CENTER FOR CONSUMER INFORMATION & INSURANCE OVERSIGHT

ACA Request for Reconsideration Page

Instructions

Select an appropriate link below to request reconsideration for the risk adjustment (including risk adjustment default charge and risk adjustment user fee), reinsurance, cost-sharing reduction reconciliation, or risk corridors programs.

Please note that pursuant to CMS regulations, the program specific web forms are only accessible during the reconsideration submission window. Review the guidance below the link to determine if the web form is currently available.

Risk Adjustment (including Risk Adjustment Default Charge and Risk Adjustment User Fee) and Reinsurance Reconsideration Request Web Form

Access is available from June 30, 2017 through July 31, 2017 at 11:59 pm ET.

Reconciliation of Cost-Sharing Reduction Reconsideration Request Web Form

Access is available from September 15, 2017 through October 31, 2017 at 11:59pm ET.

Risk Corridors Reconsideration Request Web Form

Access is available from November 3, 2017 through December 4, 2017 at 11:59pm ET.

By using this web form, you accept the terms and conditions. If you decline, you should not use the web form.

- This warning banner provides privacy and security notices consistent with applicable federal laws, directives, and other federal guidance for accessing this U.S. Government information system, which includes (1) this computer, (2) this computer network, (3) all computers connected to this network, and (4) all devices and storage media attached to this network or to a computer on this network.
- This system is provided for Government-authorized use only.
- Unauthorized or improper use of this system is prohibited and may result in disciplinary action and/or civil and criminal penalties.
- Personal use of social media and networking sites on this system is limited as to not interfere with official work duties and is subject to monitoring.
- By using this system, you understand and consent to the following:
  - The Government may monitor, record, and audit your system usage, including usage of personal devices and email systems for official duties or to conduct HHS business. Therefore, you have no reasonable expectation of privacy regarding any communication or data transiting or stored on this system. At any time, and for any lawful Government purpose, the government may monitor, intercept, and search and seize any communication or data transiting or stored on this system.
  - Any communication or data transiting or stored on this system may be disclosed or used for any lawful Government purpose.

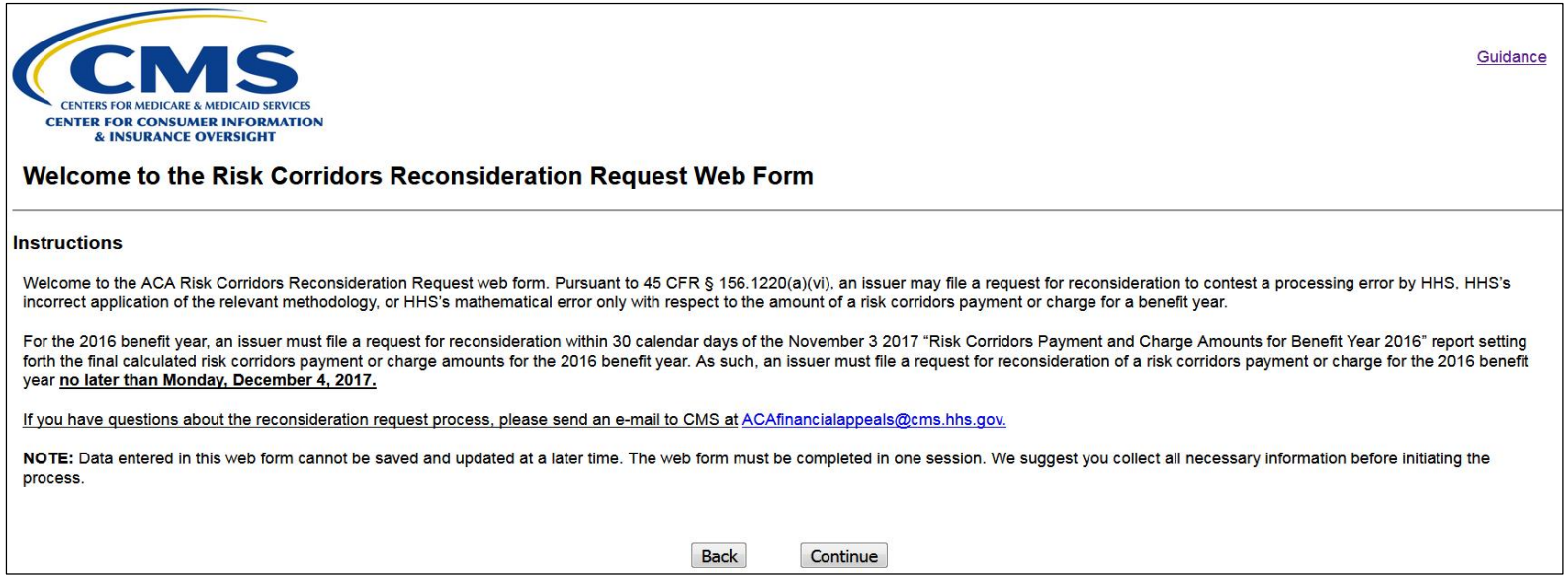
CMS
CENTERS FOR MEDICARE & MEDICAID SERVICES

HTTPS://WWW.REGTAP.INFO/

Web Form: Welcome Page

Welcome Page

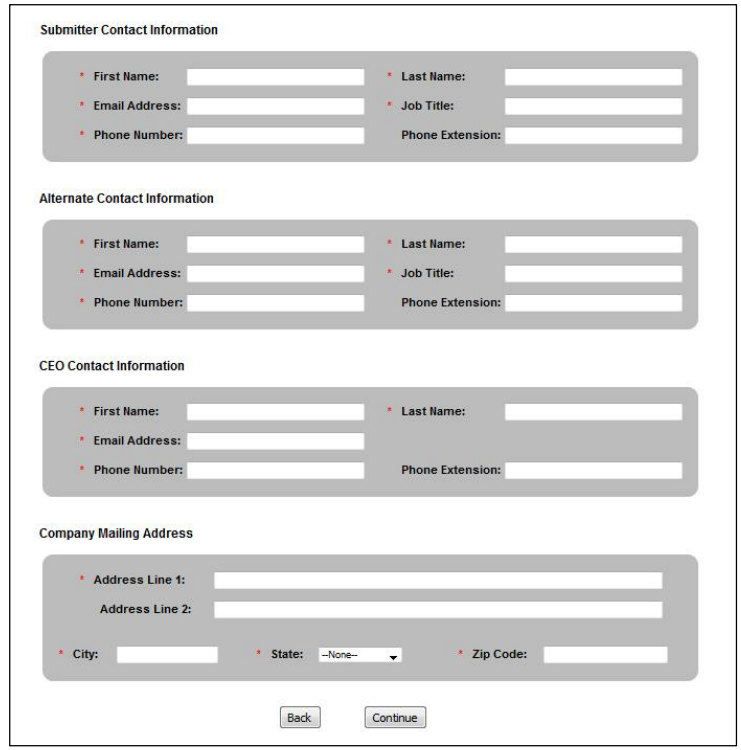
- Review the instructions.
- Select the **Continue** button.



Web Form: Contact Information Page

Contact Information Page

- Enter all required Submitter, Alternate Contact, and CEO Contact details and the company mailing address, as indicated with a red asterisk (*).
- Select the **Continue** button.



NOTE

The Submitter Contact and Alternate Contact must be different.

HTTPS://WWW.REGTAP.INFO/

Web Form: Risk Corridors Reconsideration Request Page

Risk Corridors Reconsideration Request Page

1. Enter the HIOS ID associated to this reconsideration request.
2. Enter the company legal business name.
3. Enter a brief explanation for the reconsideration request.
4. Enter the risk corridors amount the issuer has determined it owes or should receive.
5. Enter the published risk corridors payment or charge amount from the November 13, 2017, “Risk Corridors Payment and Charge Amounts for Benefit Year 2016” report.
6. Select the **Calculate** button to display the Reconsideration Amount.
7. Attach up to 10 files in support of the reconsideration request (this step is optional).
8. Select the **Continue** button.

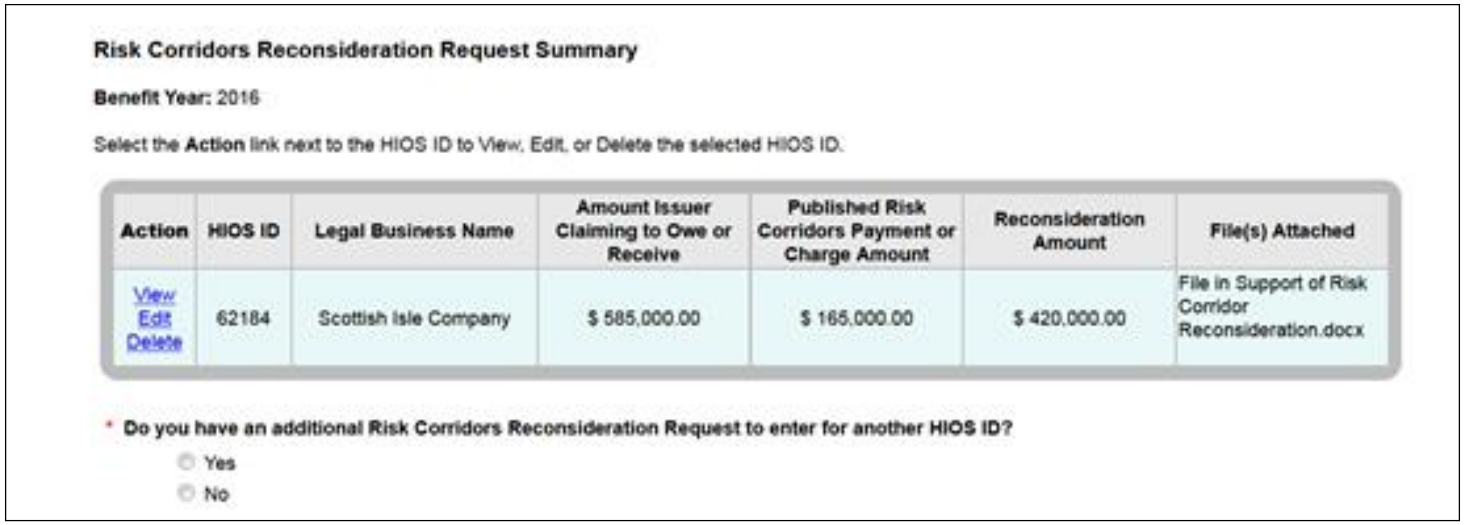
Web Form: Risk Corridors Reconsideration Request Page (continued)



Web Form: Summary Page

Risk Corridors Reconsideration Request Summary

- Verify the information entered in the Risk Corridors Reconsideration Request Summary table.
- Select the Action links to **View**, **Edit** or **Delete**.



Risk Corridors Reconsideration Request Summary

Benefit Year: 2016

Select the **Action** link next to the HIOS ID to View, Edit, or Delete the selected HIOS ID.

Action	HIOS ID	Legal Business Name	Amount Issuer Claiming to Owe or Receive	Published Risk Corridors Payment or Charge Amount	Reconsideration Amount	File(s) Attached
View Edit Delete	62184	Scottish Isle Company	$ 585,000.00	$ 165,000.00	$ 420,000.00	File in Support of Risk Corridor Reconsideration.docx

* **Do you have an additional Risk Corridors Reconsideration Request to enter for another HIOS ID?**

Yes
No

Web Form: Summary Page (continued)

Do you have an additional Risk Corridors reconsideration request to enter for another HIOS ID?

Yes

Form navigates to the Risk Corridors Reconsideration Request page after the selection of the Continue button.

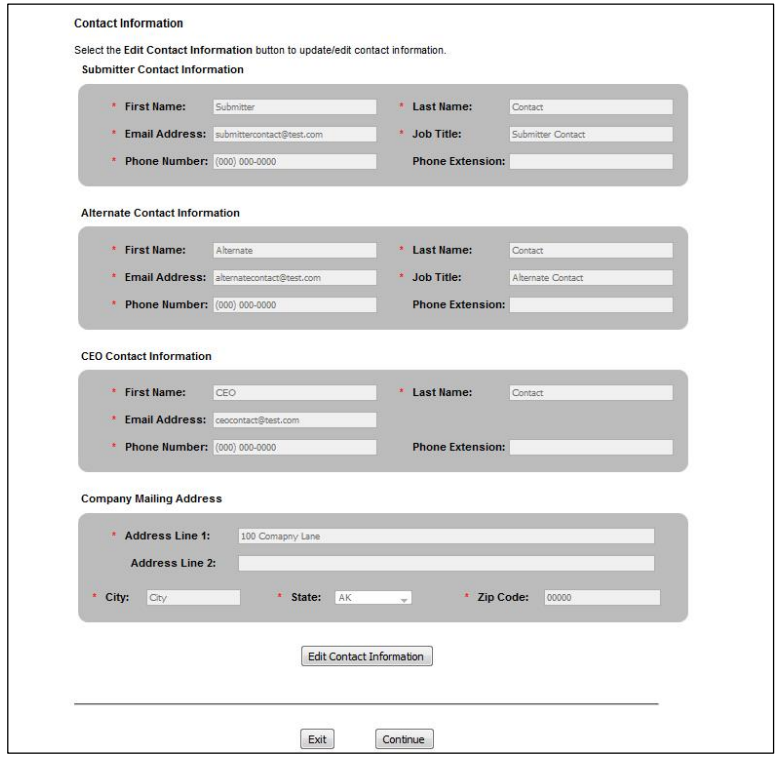
No

Form navigates to the Attestation page after the selection of the Continue button.

Web Form: Summary Page (continued)

Contact Information Summary

- Verify the information entered for each of the fields is correct.
  - Select the **Edit Contact Information** button to make corrections.
- Select the **Continue** button.



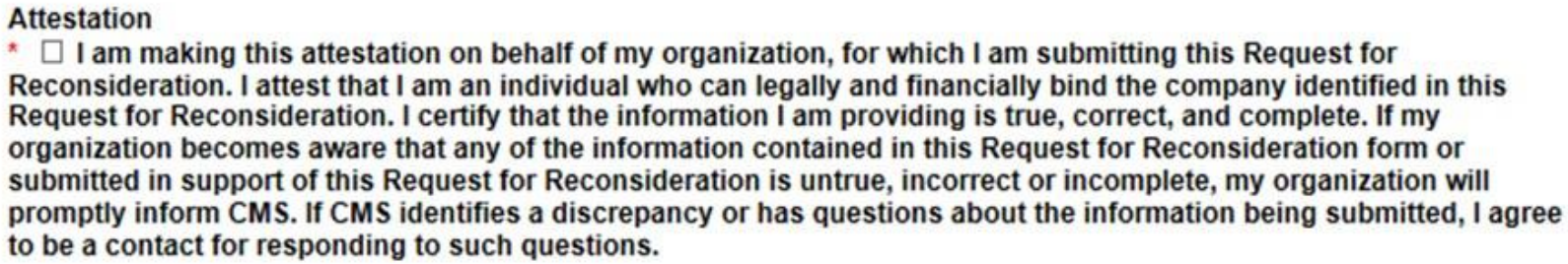
HTTPS://WWW.REGTAP.INFO/

Web Form: Attestation Page

Attestation Page

An individual with the authority to legally and financially bind the company must attest to the information submitted in the Risk Corridors Reconsideration Web Form.

- Read the attestation statement and select the check box.



Attestation

* ☐ I am making this attestation on behalf of my organization, for which I am submitting this Request for Reconsideration. I attest that I am an individual who can legally and financially bind the company identified in this Request for Reconsideration. I certify that the information I am providing is true, correct, and complete. If my organization becomes aware that any of the information contained in this Request for Reconsideration form or submitted in support of this Request for Reconsideration is untrue, incorrect or incomplete, my organization will promptly inform CMS. If CMS identifies a discrepancy or has questions about the information being submitted, I agree to be a contact for responding to such questions.

Web Form: Attestation Page (continued)

Attester Details

An individual with the authority to legally and financially bind the company.

- Enter all required attester details.
- The attester does not need to be the person submitting the form.

Select the **Submit** button to submit your data and attestation.



Web Form: Confirmation Page

Confirmation Page

- Submission End Time – date and time the Risk Corridors request for reconsideration was submitted.
- Acknowledgement email and submission information sent to email addresses – submitter, alternate contact, CEO contact and attester email addresses listed.
- PDF button – generates a PDF containing all the HIOS ID numbers for which a risk corridors reconsideration request was submitted.
- After the Confirmation PDF is printed and saved, select the **Exit** button.



It is recommended that you print and save a copy of the confirmation for your records. The acknowledgement email **does not** include the confirmation.

Determination of the Request for Reconsideration

In reviewing the reconsideration request, CMS will review:

- 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 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 dissatisfied with the Reconsideration Decision.

Interest

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

- If an issuer appeals a risk corridors 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 risk corridors charge and pays the risk corridors charge within 30 days, no interest will accrue.
  - If the issuer is successful in the appeal, CMS will refund amounts in accordance with the decision.

Informal Hearing Before CMS Hearing Officer

Informal Hearing Before a CMS Hearing Officer

- Upon receipt of a Reconsideration Decision, an issuer has 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)

- An issuer may be represented by counsel and must prove its case with clear and convincing evidence with respect to issues of fact.
- CMS will provide the issuer and the CMS Hearing Officers with an administrative record.
- After receiving the administrative record, both parties may submit a statement of support for their respective positions.

Informal Hearing 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.
- If no hearing is requested, the Hearing Officer will decide the case on the record.
- If a hearing is requested, the CMS Hearing Officer will render a decision after the hearing.
- 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 their respective positions.
- 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 or withdraw questions by phone:

- Dial ***#** (star-pound) on your phone's keypad to ask a question
- Dial ***#** (star-pound) on your phone's keypad to withdraw your question

To submit questions by webinar:

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

Resources

HTTPS://WWW.REGTAP.INFO/

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
ACA Financial Administrative Appeals Process for Issuers	https://www.cms.gov/CCIIO/Programs-and-Initiatives/Premium-Stabilization-Programs/Financial-Administrative-Appeals-Process-for-Issuers/Information-and-Insurance-Oversight.html

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

Locating Documents in REGTAP

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

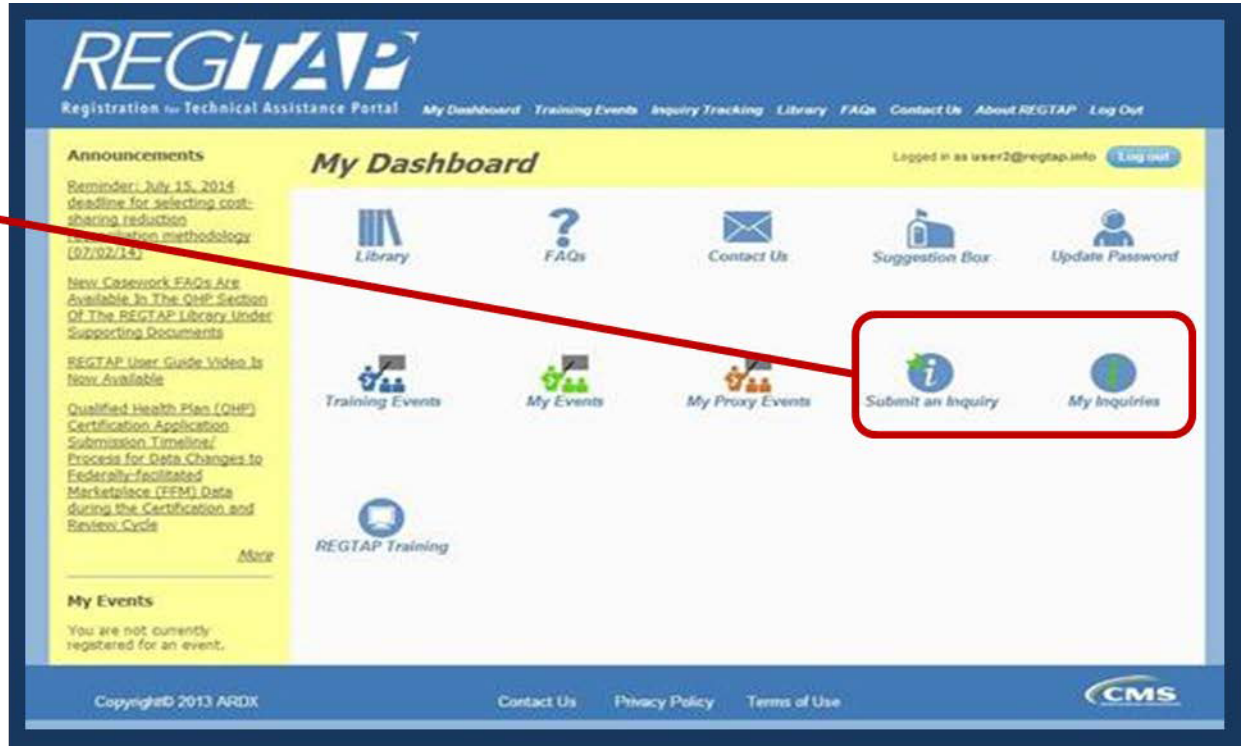
Under Program Area, select 'ACA Financial Appeals'



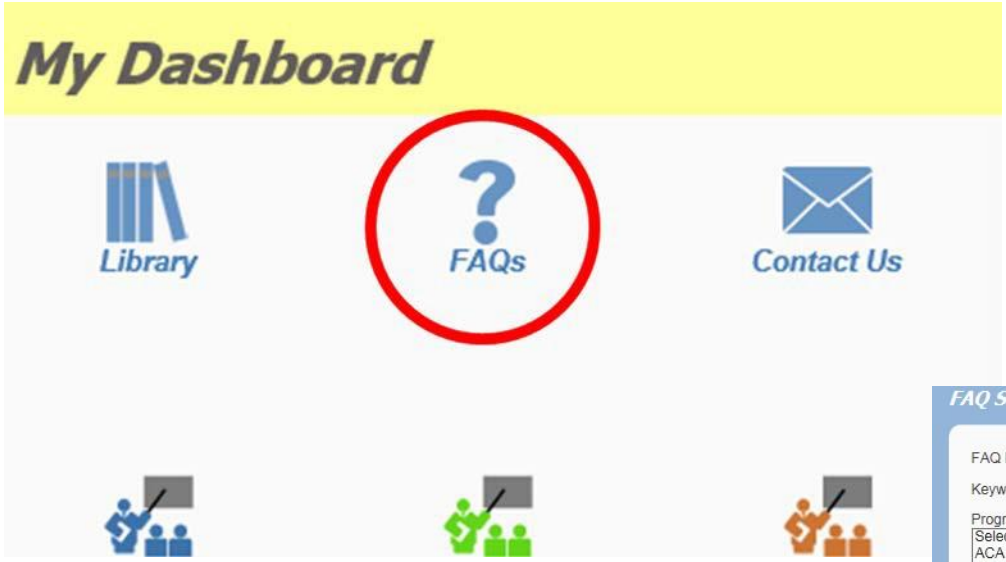
Inquiry Tracking and Management System (ITMS)

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

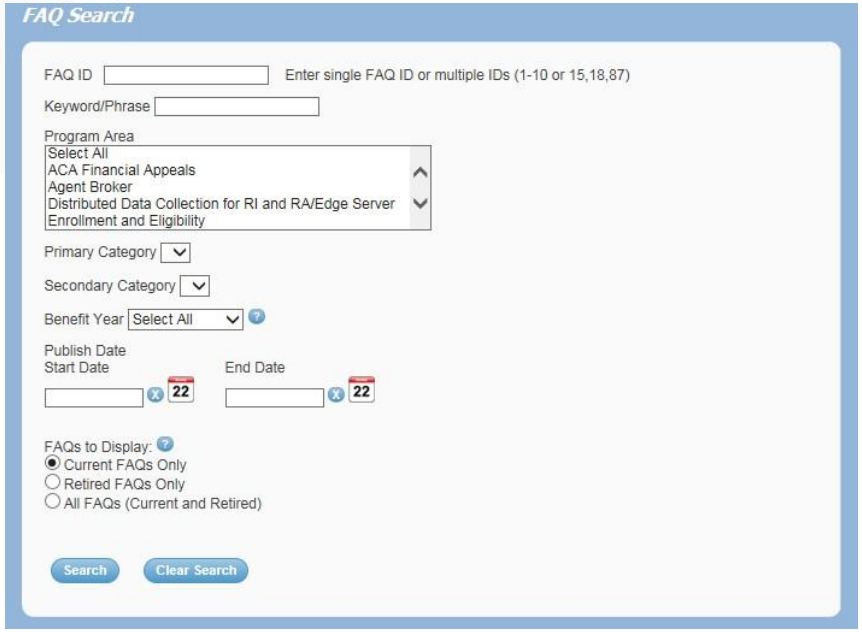
Select 'Submit an Inquiry' from My Dashboard



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

HTTPS://WWW.REGTAP.INFO/