42 C.F.R. § 405.1857

Subpoenas.

(a) *Time limits.* (1) The Board may issue a subpoena—

(i) To a party to a Board appeal or to a nonparty other than CMS or the Secretary or any Federal agency, requiring the attendance and testimony of witnesses or the production of documents for inspection and copying, provided the Board makes a preliminary finding of its jurisdiction over the matters at issue in accordance with § 405.1840(a) of this subpart.

(ii) At the request of a party for purposes of discovery (as described in § 405.1853 of this subpart) or an oral hearing (as described in § 405.1845 of this subpart); and

(iii) On its own motion solely for purposes of a hearing.

(2) The date of receipt by the Board of a party's subpoena request may not be any later than for subpoenas requested for purposes of—

(i) Discovery, 120 days before the initially scheduled starting date of the Board hearing; and

(ii) An oral hearing, 45 days before the scheduled starting date of the Board hearing.

(3) Subject to paragraph (4) of this section, the Board may not issue a subpoena any later than for purposes of—

(i) Discovery, 90 days before the initially scheduled starting date of the Board hearing; and

(ii) An oral hearing, whether issued at a party's request or on the Board's own motion, 30 days before the scheduled starting date of the Board hearing.

(4) The Board may extend the deadlines specified in paragraphs (a)(2) and (a)(3) of this section provided the Board gives each party to the appeal and any nonparty subject to the subpoena request or subpoena a reasonable period of time to comment on any proposed extension. If the Board extends a deadline, it retains the discretion to reschedule the hearing date.

(b) *Criteria*—(1) *Discovery subpoenas.* The Board may issue a subpoena for purposes of discovery if all of the following are applicable:

(i) The subpoena was requested in accordance with the requirements of paragraph (c)(1) of this section.

This document is only available to subscribers. Please log in or purchase access.

Purchase Login