

42 C.F.R. § 411.121

Hearing procedures.

- (a) *Nature of hearing.* (1) If any of the parties requests a hearing within 65 days from the date on the notice of the determination of nonconformance, the CMS Administrator appoints a hearing officer.
- (2) If no party files a request within the 65-day period, the initial determination of nonconformance is binding upon all parties unless it is reopened in accordance with § 411.126.
- (3) If more than one party requests a hearing the hearing officer conducts a single hearing in which all parties may participate.
- (4) *On the record review.* Ordinarily, the hearing officer makes a decision based upon review of the data and documents on which CMS based its determination of nonconformance and any other documentation submitted by any of the parties within 65 days from the date on the notice.
- (5) *Oral hearing.* The hearing officer may provide for an oral hearing either on his or her own motion or in response to a party's request if the party demonstrates to the hearing officer's satisfaction that an oral hearing is necessary. Within 30 days of receipt of the request, the hearing officer gives all known parties written notice of the request and whether the request for oral hearing is granted.

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