Centers for Medicare & Medicaid Services, HHS

§411.124 Administrator’s review of hearing decision.

(a) Request for review. A party’s request for review of a hearing officer’s decision must be in writing (not in facsimile or other electronic medium) and must be received by the Administrator within 25 days from the date on the decision.

(b) Office of the Attorney Advisor responsibility. The Office of the Attorney Advisor examines the hearing officer’s decision, the requests made by any of the parties or CMS, and any submission made in accordance with the provisions of this section in order to assist the Administrator in deciding whether to review the decision.

(c) Administrator’s discretion. The Administrator may—

(1) Review or decline to review the hearing officer’s decision;

(2) Exercise this discretion on his or her own motion or in response to a request from any of the parties; and

(3) Delegate review responsibility to the Deputy Administrator. (As used in this section, the term “Administrator” includes “Deputy Administrator” if review responsibility has been delegated.)

(d) Basis for decision to review. In deciding whether to review a hearing officer’s decision, the Administrator considers—

(1) Whether the decision—

(i) Is based on a correct interpretation of law, regulation, or CMS Ruling;

(ii) Is supported by substantial evidence;

(iii) Presents a significant policy issue having a basis in law and regulations;

(iv) Requires clarification, amplification, or an alternative legal basis for the decision; and

(v) Is within the authority provided by statute, regulation, or CMS Ruling; and

(2) Whether review may lead to the issuance of a CMS Ruling or other directive needed to clarify a statute or regulation.

(e) Notice of decision to review or not to review. (1) The Administrator gives all parties prompt written notice of his or her decision to review or not to review.

(2) The notice of a decision to review identifies the specific issues the Administrator will consider.

(f) Response to notice of decision to review. (1) Within 20 days from the date on a notice of the Administrator’s decision to review a hearing officer’s decision, any of the parties may file with