

by the intermediary.) If a provider files a cost report early and receives a notice of rejection before the end of the fifth month, the provider would have the remaining days in that 5-month period to file a corrected cost report. If the corrected cost report is filed by the end of the fifth month, it would be considered timely. If a provider files a cost report that is rejected by the intermediary, and the provider subsequently is unable to file a corrected report before the 5-month period has elapsed, the cost report is considered late. The intermediary then initiates the suspension of interim payments and assessment of interest against payments made to the provider for the fiscal period.

*Comment:* One commenter suggested that we eliminate the instructions in Section 2413.A.3 of the PRM-I that permit an additional 30 days for filing a certified cost report.

*Response:* Under the new due date policy set forth in this rule, all cost reports are due no later than 5 months following the close of a provider's cost reporting period. In view of this change, we believe that the additional 30 days for filing a certified cost report is no longer necessary. Thus, as the commenter suggested, we intend to revise the manual accordingly.

*Comment:* Several commenters pointed out that providers may be required to file cost reports sooner than 5 months after the close of a cost reporting period. For example, one commenter cited a New York State requirement that providers file cost reports within 4 months of the close of their cost reporting periods, rather than within the Federal deadline of 5 months. Thus, the commenter believes that affected providers would need the PS&R Summary Reports no later than 3 months following the end of their cost reporting periods instead of the 4 months reflected in our revised policy.

Another commenter believes that providers that are reimbursed on a cost basis may choose to file their cost reports sooner than 5 months after the close of their cost reporting periods in order to avoid possible delays in lump sum adjustments and interim rate adjustments.

*Response:* We recognize that there may be State requirements, or other requirements, that a provider file its cost report sooner than 5 months from the last day of its cost reporting period. In these situations, a provider should contact the intermediary and request that the intermediary furnish the PS&R Summary Report to the provider 30 days before the due date of the cost report. We emphasize that it is the provider's

responsibility to ascertain from the intermediary the amount of time needed for the intermediary to submit the PS&R Summary Report. The provider should make any such request early enough (as determined by the intermediary) to give the intermediary sufficient time to provide the PS&R Summary Report to the provider in time for the provider to meet its filing due date. Once again, each intermediary determines the amount of time it needs to submit the PS&R to the provider.

Thus, our general policy in situations where providers need their PS&R Summary Reports before they would normally receive them is that each provider should contact its intermediary to obtain the PS&R on an expedited basis. However, this policy could prove cumbersome in situations where most or all of an intermediary's providers face a similar State-imposed deadline, possibly resulting in a large volume of individual requests for expedited PS&Rs. In such a situation, we would strongly encourage the State to work with affected intermediaries and providers to develop a more efficient means of addressing a widespread need for PS&Rs before the reports are required under Medicare.

As a commenter suggested, some providers may wish to file their cost reports earlier than the 5-month deadline of their own accord. These providers too should contact their intermediaries with their requests that the PS&R Summary Reports be furnished earlier than the usual timeframe of 4 months after the close of a provider's cost reporting period. The providers should request the PS&R in time to allow the fiscal intermediary no less than 30 days to prepare the PS&R.

We note that an intermediary is required to provide only one PS&R Summary Report to each provider. If a provider that requests its PS&R Summary Report early subsequently requests a later PS&R, the subsequent version of the PS&R will be furnished by the intermediary at the provider's expense.

*Comment:* Several commenters believe that we should include situations that reasonably impact the provider's ability to file its cost report timely, such as changes in key provider personnel, among the acceptable "circumstances beyond the provider's control" for granting an extension to a provider for filing its cost report. Other commenters are concerned that an intermediary's operations (such as audits, desk reviews, and settlements) could impact on a provider's ability to timely file cost reports.

*Response:* Under revised § 413.24(f)(2)(ii), an extension of the due date for filing a cost report may be granted by the intermediary only when a provider's operations are significantly adversely affected due to extraordinary circumstances over which the provider has no control, such as flood or fire. Although this policy constitutes a more stringent standard for a filing extension than the "good cause" criterion that has been in effect, we believe that this change is reasonable and necessary in conjunction with the change to a 5-month deadline for filing the cost report. Even for providers that routinely have obtained 30-day "good cause" filing extensions beyond the previous 3-month deadline, the new 5-month deadline allows approximately 30 additional days to file a cost report.

We recognize that personnel changes create workload problems for the provider. In general, however, we consider personnel changes and varying workload demands to be acknowledged parts of any provider's business operations rather than "circumstance over which a provider has no control."

With regard to the commenters' concern that an intermediary's operations may impact on a provider's ability to file cost reports on a timely basis, we note that in any case where an intermediary is late in furnishing a PS&R Summary Report, a provider would always be allowed 30 days after receipt of the PS&R Summary Report to complete and submit its cost report to the intermediary.

As always, intermediaries and HCFA will consider requests for extensions on a case-by-case basis. As the regulations reflect, however, in view of the additional time now permitted for filing a cost report, we believe the standard for requesting an extension should be stringent.

*Comment:* Two commenters objected to our proposal that the deadline for a provider that is changing ownership or terminating to file its cost report be extended from 45 days to 5 months following change of ownership or termination. The commenters believe that this change may result in the intermediary finding it difficult to collect overpayments made to the provider.

*Response:* Our experience is that the current 45-day timeframe for a provider that is changing ownership or terminating often is not sufficient for an intermediary to supply the provider with its PS&R Summary Report and then for the provider to submit an accurate cost report to its intermediary. We believe that extending the due date for these providers' cost reports to 5