

EXHIBIT 4

HHS.gov

U.S. Department of Health & Human Services

Office of Medicare Hearings and Appeals (OMHA)

This page contains information on:

- **Adjudication Timeframes**
- **Requests Submitted After April 1, 2013 — Deferred Assignment & Filing Alert for Requests and Additional Documentation**
- **Escalation Rights**
- **OMHA Medicare Appellant Forum**

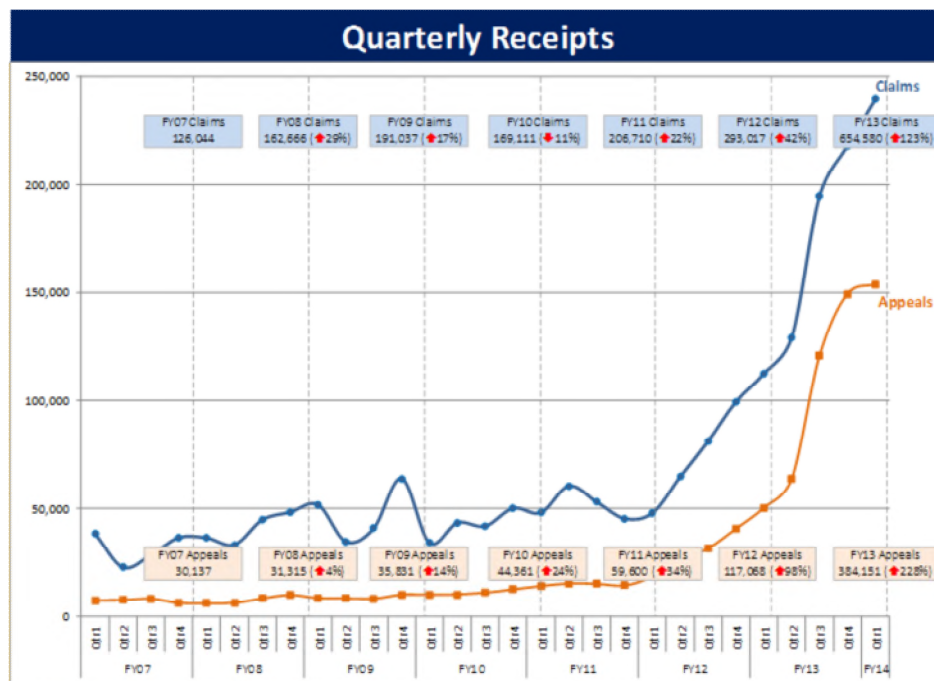
Adjudication Timeframes

Although OMHA is processing a record number of Medicare appeals, we continue to receive more requests for hearing than our Administrative Law Judges can adjudicate in a timely manner. OMHA remains committed to processing requests for hearing in the order received as quickly as possible given pending requests and adjudicatory resources. We will continue to process Part D prescription drug denial cases that qualify for expedited status within 10 days and will screen all incoming requests to ensure Medicare beneficiary issues are prioritized given that they often present emergent circumstances that must be promptly addressed. In all other circumstances, you (or your representative) will receive an Acknowledgement of Request letter when your request is docketed.

Due to record receipt levels, we are currently projecting an 20 - 24 week delay in entering ("docketing") new requests into our case processing system. If 22 weeks have not lapsed since you submitted your Request for Hearing, do not resubmit your request.

We are currently in the process of updating the expected adjudication times based on appeal receipt date. This will provide appellants with a more accurate timeline for their appeal.

The average processing time for appeals decided in fiscal year 2014 is 387 days.



Represents cases with Request for Hearing Date in listed year

Excludes reopened and combined appeals

FY14 receipts may be incomplete due to data entry backlog. Receipts complete as of January 2014.

Run Date: July 7, 2014

Decision Statistics

Appeals

FY12	FY13	FY14
		(Data through June 2014)
Fully Favorable % 50.92%	Fully Favorable % 34.07%	Fully Favorable % 35.22%
Partially Favorable % 6.12%	Partially Favorable % 3.99%	Partially Favorable % 2.67%
Unfavorable % 26.65%	Unfavorable % 19.63%	Unfavorable % 28.57%
Remanded % 4.12%	Remanded % 23.00%	Remanded % 1.93%
Dismissed % 11.99%	Dismissed % 19.19%	Dismissed % 31.21%
Other % 0.20%	Other% 0.12%	Other% 0.40%

Claims

FY12	FY13	FY14
		(Data through June 2014)
Fully Favorable % 30.66%	Fully Favorable % 29.45%	Fully Favorable % 26.92%
Partially Favorable % 14.85%	Partially Favorable % 9.68%	Partially Favorable % 9.67%
Unfavorable % 30.92%	Unfavorable % 23.98%	Unfavorable % 30.96%
Remanded % 7.09%	Remanded % 15.70%	Remanded % 1.67%
Dismissed % 14.29%	Dismissed % 20.72%	Dismissed % 29.94%
Other % 2.19%	Other% 0.47%	Other% 0.84%

Average Processing Time By Fiscal Year

Fiscal Year	Number of Days
FY09	94.9
FY10	109.6
FY11	121.3
FY12	134.5
FY13	220.7
FY14	
October	301.3
November	325.9
December	343.7
January	371.0
February	383.3
March	402.5
April	418.7
May	441.9
June	463.9
FY14 YTD Average	387.2

*Includes appeals decided in the listed fiscal year (does not include remands).

**Average days from Request for Hearing to Decision.

***Run Date: July 7, 2014

[Return to Top](#)

Requests Submitted After April 1, 2013 — Deferred Assignment Filing Alert for Requests and Additional Documentation

Deferred Assignment

Due to the overwhelming number of receipts and the existing workload within the Agency, OMHA implemented a program that defers the assignment of most requests for hearing received after April 1, 2013. Under this new docketing process, new requests for hearing will be entered into our case processing system, then held until they can be accommodated on an Administrative Law Judge's docket for adjudication.

Due to the volume of requests that we are receiving, there are significant delays in assigning requests at this time. When your request is assigned to an Administrative Law Judge, we will send you a Notice of Assignment. Based on our current workload and volume of new requests, we anticipate that assignment of your request for hearing to an Administrative Law Judge may be delayed for up to 28 months.

Please note that we will continue to process Part D prescription drug denial cases that qualify for expedited status within 10 days and will screen all incoming requests to ensure Medicare beneficiary issues are prioritized given that they often present emergent circumstances that must be promptly addressed.

OMHA is now assigning a limited number of non-beneficiary appeals received between April and June 2013.

Filing Instructions Alert To OMHA Appellants

OMHA receives all previously submitted medical records and other documentary evidence from the Medicare contractor that conducted the decision that you are appealing (or from the Social Security Administration, if it conducted the decision being appealed).

In order to manage the volume of appeals we are receiving, we ask that you please do the following:

- **Do not attach medical records or other documentary evidence to your request for Administrative Law Judge (ALJ) hearing.** Please limit your submission to the Request for ALJ hearing itself. See the "When to Submit Your Evidence" section below for instructions on how and when to submit additional evidence.
- **Clearly list the Medicare Appeal Number for the Reconsideration you are appealing on your Request for ALJ hearing form.** This number will appear in the upper right-hand corner of the reconsideration decision letter in the following format, e.g. 1-1234567890. Alternatively, please include a copy of the first page of your reconsideration decision.
- If you are appealing a reconsideration issued by a Qualified Independent Contractor (QIC), **DO NOT submit a courtesy copy of your request for ALJ hearing to the QIC that issued your reconsideration or to the Medicare Administrative Contractor (MAC) who issued your redetermination.** Neither the QIC nor the MAC require a copy for the purposes of 42 CFR § 405.1014(b)(2).

- **Do not re-submit medical records or other documentary evidence you already submitted earlier in the claim submission or to another level of appeal.**

When you request an ALJ hearing, OMHA coordinates directly with the prior level of appeal to obtain the administrative record, which includes everything you already submitted. Duplicate evidence will not be considered.

When To Submit Additional Evidence or Briefs

- If you submit additional documentation (for example, additional evidence or briefs in support of coverage) to OMHA Central Operations **after you file your request, but before the case is assigned** to an ALJ, OMHA Central Operations will return the materials to you. OMHA Central Operations is devoting all resources to processing requests for hearing and cannot accommodate coordinating the additional materials at this time. You will have an opportunity to submit the additional materials after your case is assigned to an ALJ.
- When your request for hearing is assigned to an ALJ, we will send you a Notice of Assignment. This notice will reflect the name and address of the ALJ assigned to your case. If you would like to submit additional evidence related to your appeal, you should submit it after assignment directly to your assigned ALJ using the name and address referenced on this notice. Alternatively, you may submit your evidence directly to the ALJ within ten calendar days of receipt of the Notice of Hearing.

Special instruction for providers or suppliers: if you are submitting new evidence to the ALJ that was not previously submitted at any prior level of appeal, the evidence must be accompanied by a statement explaining why the evidence was not previously submitted. See 42 CFR § 405.1018. The ALJ will then examine any new evidence to determine whether there is good cause to submit the evidence for the first time at the ALJ level. 42 CFR § 405.1028.

Return to Top

Escalation Rights

If you are appealing a Part A or Part B reconsideration issued by a Qualified Independent Contractor (QIC), you may have a right to escalate your request for hearing to the Medicare Appeals Council (MAC), 90 days after you file a complete request for hearing. More information on escalating a request for hearing can be found at 42 C.F.R. sections 405.1104 and 405.1106(b). When a request for hearing is escalated, the MAC may take any action in accordance with 42 C.F.R. section 405.1108(d), but is not required to conduct a hearing.

Escalating a request for hearing is a two-step process. See *In re General Medicine, P.C.* (MAC Sep. 6, 2007). To initiate the process, you must file a written request for escalation with OMHA. If your request has been assigned to an Administrative Law Judge, please file your request with the Administrative Law Judge's field office. Please clearly indicate your submission as an escalation request to help us process your request as quickly as possible. Our field office addresses can be found at <http://www.hhs.gov/omha/contacts/offices.html>.

If your request has not been assigned to an Administrative Law Judge, please file your request for escalation with:

OMHA — Central Operations
Attn: Escalation Request Mailstop
200 Public Square, Suite 1260
Cleveland, OH 44114

After OMHA receives your initial request for escalation, you may receive a decision, dismissal, remand order, or a Notice on Escalation Request. However, if you do not hear from us within 10 days (including 5 days for mailing time), you may consider your request escalated and proceed to seek MAC review of the escalated request. The request for MAC review must:

1. Contain the required content for a request for review of an escalated case set forth in 42 C.F.R. section 405.1112;
2. Be sent to both the MAC and the Administrative Law Judge's OMHA office (or OMHA Central Operations if you sent your request for escalation there);
and
3. Be copied to the other parties to the appeal (for example, the parties who received a copy of the Notice of Reconsideration).

The address for the MAC is:

Department of Health and Human Services
Departmental Appeals Board, MS 6127
Medicare Appeals Council
330 Independence Ave., S.W.

Cohen Building, Room G-644

Washington, D.C. 20201

Please note that if you do not request MAC review of an escalated request, the case will remain pending with OMHA and the Administrative Law Judge adjudication process will continue.

[Return to Top](#)

OMHA Medicare Appellant Forum

- [Letter from the Chief Administrative Law Judge](#)
- [OMHA Medicare Appellant Forum Brochure](#)
- [OMHA Medicare Appellant Forum Presentations](#)

Event Information

The Office of Medicare Hearings and Appeals (OMHA) held a Medicare Appellant Forum on February 12, 2014 to provide updates to OMHA appellants on the status of OMHA operations; relay information on a number of OMHA initiatives designed to mitigate a growing backlog in the processing of Medicare appeals at the OMHA-level of the administrative appeals process, and provide information on measures that appellants could take to make the administrative appeals process work more efficiently at the OMHA-level.

[Return to Top](#)