



**American Hospital
Association®**

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NEWS RELEASE

HOSPITAL LAWSUIT DEMANDS TIMELY HEARINGS FROM HHS

WASHINGTON (May 22, 2014) – The American Hospital Association (AHA) today filed a lawsuit to compel the U.S. Department of Health and Human Services (HHS) to ensure that its Administrative Law Judges (ALJs) meet statutory deadline for deciding Medicare claim appeals timely. The AHA is joined in its suit by hospital plaintiffs: Baxter Regional Medical Center, Mountain Home, Ark.; Covenant Health, Knoxville, Tenn.; and Rutland Regional Medical Center, Rutland, Vt.

Excessive and inappropriate denials by Recovery Audit Contractors (RACs) are the direct cause of the current backlog. RACs, which are charged with identifying improper Medicare and Medicaid fee-for-service payments, are paid on a high contingency fee basis, receiving between 9 – 12.5 percent of the value of those payments. This perverse incentive leads to inordinate high numbers of inpatient payment denials that hospitals successfully overturn 72 percent of the time when they appeal a denial to an ALJ, according to the HHS Office of the Inspector General.

“HHS’s failure to deal directly with the problem of excessive and inappropriate denials created by the RAC program, which have now spilled over to create unacceptable and unlawful delays in the ALJ hearing process, has led to this lawsuit,” said Rich Umbdenstock, president and CEO of the AHA. “Hospitals simply cannot afford to have billions of dollars that are needed for patient care tied up in the appeals process.”

The Medicare statute obligates the agency to provide for the right of appeal for hospitals and clearly directs it do so in a timely manner. Specifically, the Medicare statute directs that an ALJ must render a

decision within 90 calendar days of the date of a proper request for hearing. Despite the legal mandate, HHS announced in December 2013 that there will be a complete moratorium on assigning provider appeals to individual ALJs because of the significant increase in the number of appeals moving through the system. The suspension means hospitals lodging new appeals can expect to wait up to three years, and probably longer, to obtain an ALJ hearing and up to five years to get a final decision. Delays in ALJ review have generated a massive backlog of more than 460,000 pending ALJ appeals that grows larger every day. This unprecedented delay harms all hospitals by threatening their financial health with potentially calamitous consequences.

The lawsuit seeks to compel HHS to comply with its legal obligations to provide timely administrative review.

The AHA filed suit in the U.S. District Court for the District of Columbia. For a copy of the complaint, visit <http://www.aha.org/advocacy-issues/legal/litigation.shtml>

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About the AHA

The American Hospital Association (AHA) is the national organization that represents and serves all types of hospitals, health care networks, and their patients and communities. Nearly 5,000 hospitals, health care systems, networks, other providers of care and 43,000 individual members come together to form the AHA. Founded in 1898, the AHA provides education for health care leaders and is a source of information on health care issues and trends. For more information, visit the AHA website at www.aha.org.