

Medicare Appeals

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Housekeeping

- All on mute. Use Questions function for substantive questions and for technical concerns.
- Problems getting on the webinar? Send an e-mail to NCLER@acl.hhs.gov.
- Written materials and a recording will be available at NCLER.acl.gov. See also the chat box for this web address.

About NCLER

The National Center on Law and Elder Rights (NCLER) provides the legal services and aging and disability communities with the tools and resources they need to serve older adults with the greatest economic and social needs. A centralized, one-stop shop for legal assistance, NCLER provides Legal Training, Case Consultations, and Technical Assistance on Legal Systems Development. Justice in Aging administers the NCLER through a contract with the Administration for Community Living's Administration on Aging.

About Justice in Aging

Justice in Aging is a national organization that uses the power of law to fight senior poverty by securing access to affordable health care, economic security, and the courts for older adults with limited resources.

Since 1972 we've focused our efforts primarily on populations that have traditionally lacked legal protection such as women, people of color, LGBT individuals, and people with limited English proficiency.

About Center for Medicare Advocacy

The Center for Medicare Advocacy is a national non-profit law organization, founded in 1986, that works to advance access to comprehensive Medicare and quality health care.

- Headquartered in CT and Washington, DC
 - With additional attorneys around the country
- Staffed by attorneys, advocates, nurses, and technical experts
- Education, legal analysis, writing and assistance
- Systemic change – Policy & Litigation
 - Based on our experience with the problems of real people
- Medicare appeals
- Medicare/Medicaid Third Party Liability Projects

Today's Agenda

- Medicare Part A and B Appeals
- Medicare Managed Care Appeals
- Practice Tips
- Questions

Key Lessons

1. There are Different Appeals Processes Based on Medicare Enrollment.
2. Beneficiaries Can Request Expedited Appeals in Certain Circumstances.
3. Advocates Should Be Aggressive in Requesting and Pursuing Medicare Appeals.
4. Close coordination with the provider is a critical element in a successful appeal.
5. Advocates need to pay careful attention to deadlines.

Part A & B Appeals Process

Basic Medicare Design

Part A (hospital benefit)

- Hospital, SNF, CORF, Home health, hospice

Part B (medical benefit)

- Physician services, most DME, tests, etc.

Part C (Medicare Advantage)

- Part A and B services through managed care (usually also includes Part D)

Part D (prescription drug benefit)

Basic Medicare Design Initial Approval Process

Part A and Part B Services

- Service delivered first, then Medicare Administrative Contractor (MAC) reviews
- Provider issues ABN if coverage is unlikely

• Part C Services

- Prior approval required for many services. Denials before service rendered.

Appeals

- Initial Determination
 - Decisions made by Medicare Administrative Contractors (MACs)
- Redeterminations (appeal w/in 120 days)
 - Also made by MACs
- Reconsideration (appeal w/in 180 days)
 - Made by QIC: Contractors with Medicare
- Administrative Law Judge Hearing (if at least \$160)
- Medicare Appeals Council (a different MAC)
- Federal District Court (if over \$1600)

Appeals: Fast Track

Fast Track may apply to:

- Hospital discharges
- Terminations of SNF, CORF, home health services, or hospice

Appeals: Fast Track Process

Fast Track process:

- Fast track appeal to BFCC-QIO
- Decision the day after receiving necessary info
- In hospital, if unfavorable decision, can stay with coverage through noon on the day following the denial notice
- Further fast track appeal to QIC
- Further standard appeals available but not fast track

Part C Appeals Process

Part C Appeals

Four options if denied or dissatisfied:

- Appeals process
 - Triggered with written denial or failure to grant within 14 days for service or 30 days for payment
 - 5 steps:
 - Reconsideration by plan: 60 days to appeal
 - Independent Review Entity (IRE)
 - ALJ, MAC, Federal Court

Appeals Cont'd

- Expedited appeal
 - if medical conditions warrant (decision within 72 hours)
- Fast-track appeal
 - for hospital/SNF, Home Health discharge
- File a complaint through grievance procedures, “complaint”

Practice Tips

Expedited/Fast Track Appeals

- Discharge from hospital, SNF, CORF, home health and hospice
- Don't delay – call the QIO
- Facility/provider has burden of proof, but beneficiary should show why care needs continue
- Family caregiver diligence is crucial, familiar with care given and needs
- Collect additional documentation, get MD support, request records from hospital/facility

Standard Appeals

- In traditional Medicare, generally appeal from form provided with Medicare Summary Notice (MSN)
 - Sometimes follow up with the contractor or provider can resolve issues before appeal is necessary
- Keep an eye on deadlines
 - At each level of appeal, you should receive instructions on how to move to the next level of appeal – follow directions and keep copies
- Don't be discouraged if you receive a denial
 - Read the decision to determine the reason for a denial, whether liability will be waived, and determine the strength of the record – what information might you need to strengthen your case?

Standard Appeals Continued

- Gather necessary evidence/information
 - Assistance from community physician key to successful appeal – try to get a written statement
 - Obtain medical records
- Familiarize yourself with the applicable rules – regulations, policy (including National Coverage Determinations and Local Coverage Determinations)
 - See [Medicare coverage database](#)

Standard Appeals – ALJ Hearings

- If submitting a beneficiary appeal to Office of Medicare Hearings and Appeals (OMHA) for an ALJ hearing, put “Attn: Beneficiary Mail-Stop” on envelope
- If you haven’t already submitted a brief outlining your argument you may wish to submit one with your request for hearing
 - Keep it simple – outline facts, the law, including support
 - At hearing, don’t just read your brief

Additional Resources

- David Lipschutz

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