

Chapter II-13 Closing the Case

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II-13-1 Closing the Case, Generally

Citations: §§ 405.990, 405.1050, 405.1104

A. Overview

Timely notice of the disposition and closing of an appeal is essential to ensure effectuation of a decision or other necessary actions can be undertaken by the parties, CMS, CMS contractors, or the Council. The timing of the disposition notice impacts the timing for parties to file an appeal and for the Council to initiate a review of an appeal on its own motion. In addition, the timely transfer of the case file ensures effectuation can occur, CMS or its contractors can prepare agency referrals, and the record can be transitioned to storage.

B. Cases in which a Disposition is Issued by OMHA

When OMHA issues a disposition, closing the case involves three major steps, which are detailed in subsections **13-2** through **13-4**:

1. Completing the administrative record;
2. Mailing the notice of disposition; and
3. Shipping the case file.

C. Cases Closed Due to Escalation to Council, Removal to Council or EAJR Request

When OMHA does not issue a disposition because the case is escalated to Council under § 405.1104, removed to Council under § 405.1050, or the review entity has certified that the party meets the requirements for EAJR under § 405.990, closing the case involves an abbreviated process. See I-7-5 C for further information on cases escalated from OMHA to the Council.

Due to the time-sensitive nature of these requests, these cases are closed on an expedited basis, as follows:

1. Place the request or removal order on top of the administrative record.

NOTE: If the file was exhibited prior to the request to escalate, notice of removal to Council or EAJR request, updating the exhibit list is not required.

2. Complete the OMHA Shipping Coversheet and staple it to the case file folder. If there are multiple folders, the OMHA Shipping Coversheet is affixed to the first file.
3. Ship the case to the Departmental Appeals Board using the methods described in II-13-4 B, E and F.

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4. Enter required MAS data to close the appeal.

NOTE: Requests for escalation to Council, removal to Council and EAJR requests and all associated records (the case file and all materials filed with OMHA) must be sent to the HHS Departmental Appeals Board within 5 calendar days of receipt.

Send cases that are escalated or removed to the Council to:

Department of Health & Human Services
Departmental Appeals Board, MS 6127
Medicare Operations Division
Attn: Escalation Mailstop
330 Independence Ave., S.W.
Cohen Building, Room G-644
Washington, DC 20201

Send cases that are the subject of an EAJR request to:

Department of Health & Human Services
Departmental Appeals Board, MS 6127
Appellate Division
330 Independence Ave., S.W.
Cohen Building, Room G-644
Washington, DC 20201

II-13-2 Completing the Administrative Record

Citations: §§ 405.1034, 405.1046, 405.1052

A. Quality Assurance Check

Before copying and mailing the disposition package, perform the following quality assurance check:

1. Compare the following case information in the case caption, procedural history of the disposition document, headers, and the notice with the case information in the record or MAS data to ensure there are no transcription errors:
 - ALJ appeal number;
 - Appellant name;
 - Beneficiary initials, if different than the Appellant, and redacted HICN; and
 - Dates of service.

2. For decisions, compare how the outcome is characterized in the decision summary information at the beginning of the decision and in the Conclusions of Law section to ensure they are consistent. If there are inconsistencies, return the file to the ALJ for further instructions.

Example. For a fully favorable decision, ensure the first page indicates that the decision is fully favorable and the Conclusions of Law indicate that the decision is fully favorable.

3. Verify that the disposition package contains the correct notice. Use of the OMHA approved, mandatory forms (available in MATS) is required. There are four possible notices:

a. Notice of Decision (OMHA-1051)

For use when issuing a substantive decision (Favorable, Partially Favorable, or Unfavorable).

b. Notice of Dismissal (OMHA-1072)

For use when issuing an Order of Dismissal.

c. Notice of Decision Regarding the QIC's Dismissal of Your Request for Reconsideration (OMHA-353)

For use when issuing a decision affirming a QIC dismissal or a remand of a QIC dismissal to the QIC.

d. Notice of Remand (OMHA-1075)

For use when issuing an Order of Remand (other than a remand of a QIC dismissal).

4. If the case was exhibited, ensure all exhibits referenced in the final exhibit list are present in the file.

NOTE: Formal organization and exhibiting of the record is not required in all cases. See II-4-2 A for a list of the types of appeals for which exhibiting is not required.

5. Ensure the record is free from any self-adhesive notes that may be used in reviewing the case or conducting the hearing, as these must be removed prior to the closing and forwarding of the case file from OMHA. See II-4-5 B.
6. Ensure that work-product and other deliberative documents that should not be in the record are removed from the case file, and placed in the ALJ working file. See II-4-1 C for instructions on materials that are not included in the administrative record.
7. Ensure any hearing audio recordings (if a hearing was held) are operational, appropriately labeled and affixed to the file. See II-4-3 D.3.e for additional information on labelling and affixing hearing CDs to the file.
8. Ensure an electronic backup copy of the hearing is labeled and stored on the appropriate hard drive in accordance with local procedures.
9. Ensure all documents that are part of the record are properly affixed (pronged) to the case file. See II-4-3 F for more information on securing the records to the file.
10. If any inconsistencies are found in the disposition documents or exhibits, return the file to the ALJ for further instructions.

B. Create the Disposition Package

The following documents, in order of placement with first on top, make the disposition package:

- One copy of the applicable notice.
- One copy of the disposition document.
- One copy of the final exhibit list, if an exhibit list was prepared for the case (for example, an exhibit list is not required for remands).
- If applicable, Form DAB-101 (“Request for Review of Medicare Administrative Law Judge (ALJ) Medicare Decision/Dismissal). The DAB-101 must be included in the mailings to the parties, but it is not sent to CMS contractors.

NOTE: The DAB-101 is not included with appeals for which there are no appeal rights to the Council (remands and decisions affirming QIC dismissals).

C. Scan and Upload the Disposition Package

1. Prior to closing an appeal in MAS, a signed and date-stamped copy of the ALJ decision or order must be scanned, saved as a searchable portable document format (".pdf") file and attached in MAS.

NOTE: The date of the disposition, the MAS Decision Letter Mailed (DLM) date and the date the disposition package is mailed must all reflect the same date. See subsection E, below.

2. The decision attached in MAS must be identical to the version issued to the parties, including the ALJ's hand-written signature and the issuance date.

NOTE: If the ALJ issues an amended decision, a signed, scanned copy of that amended decision must also be attached in MAS. The original ALJ decision scan must not be removed.

3. The scanned decision image file must be named using the full ALJ case number followed by the type of disposition (for example, 1-23456789 Decision, or 1-23456789 Dismissal). Amended Decisions will reflect the version number (for example, 1-23456789 Amended Decision1, 1-23456789 Amended Decision2).

4. Import the scanned image file into MAS, ensuring it is imported to the correct MAS appeal number.

NOTE: If the ALJ issues a consolidated decision for multiple ALJ appeal numbers, but maintains separate ALJ appeal numbers and does not combine the cases in MAS, the disposition package must be uploaded in MAS under each individual ALJ appeal number. If the disposition package contains PII, only the PII for beneficiaries related to the individual ALJ appeal number may be uploaded for that appeal; all other PII must be redacted.

D. Copy the Disposition Package for Mailing

Determine and make the number of copies of the disposition documents that are required to be mailed in accordance with the provisions of [II-13-3](#).

E. Assemble the Record for Mailing

The administrative record must be finalized in accordance with the provisions of [II-4-5](#). The original disposition package must be hole-punched, placed on the top of the complete

administrative record in the case file, and affixed (pronged) to the case file as directed in II-4-5.

F. MAS Data Entry

1. Ensure that all required MAS entries have been completed.
2. Enter the MAS DLM date.
3. Close the case in MAS.

NOTE: When closing the case in MAS, the date of the disposition, the MAS DLM date, and the date the disposition package is mailed must all reflect the same date in accordance with II-13-3. The case file(s) are shipped in accordance with II-13-4.

II-13-3 Mailing the Notice of Disposition

Citations: [§§ 405.910, 405.1034, 405.1046, 405.1052](#)

When the case is closed in MAS, the disposition package must be identified as ready to mail by placing the packages in a designated area in accordance with local procedures. The disposition package must be mailed to the recipients as identified in subsections **A** and **B**, below.

[§§ 405.1046\(a\) and \(e\), 405.1052\(b\)](#).

A. Decisions and Remands

The notice of decision or notice of remand is addressed to the appellant, at the last known address, and mailed to the following at their last known address:

1. The appellant, or appellant's representative, if applicable.

NOTE: If the appellant has a representative, a separate notice need not be sent to the appellant, unless the case is a Medicare Secondary Payer (MSP) appeal. In MSP cases, the notice must be sent to both the representative and the beneficiary. [§ 405.910\(i\)\(4\)](#).

2. The appointed representative of any other party listed in subsections **3** through **5** below, if the file contains a valid appointment of representative. A separate notice need not be sent to the represented party, unless the case is a MSP appeal, in which case the notice must be sent to both the representative and the beneficiary. [§ 405.910\(i\)\(4\)](#). See [I-5](#) for more information about representatives and valid appointments.
3. The beneficiary (if other than the appellant), unless the beneficiary assigned his or her appeal rights under [§ 405.912](#), or the appellant is the applicable plan in a MSP case under [§ 405.906\(a\)\(4\)](#);

Exception: In overpayment cases involving multiple beneficiaries, where there is no beneficiary liability, the ALJ may choose to send written notice only to the appellant. [§ 405.1046\(a\)](#).

NOTE: If the beneficiary should be noticed, but is deceased, the notice is sent to the estate or personal representative/executor.

4. The provider or supplier (if other than the appellant), unless it is an MSP case under [§ 405.924\(b\)\(16\)](#) or the provider or supplier is not a party under [§ 405.906](#);
5. Any other party to the appeal (for example, a Medicaid State Agency that is a party to the appeal).
6. The Medicare Administrative Contractor or other contractor that issued the initial determination; and
7. The QIC that issued the reconsideration.

NOTE: The Notice of Decision or Notice of Remand must identify the additional recipients to whom the notice was sent.

B. Dismissals and Recommended Decisions

The notice of dismissal or notice of recommended decision is addressed to the appellant, at the last known address, and mailed to the following at their last known addresses:

1. The appellant, or appellant's representative, if applicable.

NOTE: If the appellant has a representative, a separate notice need not be sent to the appellant, unless the case is a MSP appeal. In MSP cases, the notice must be sent to both the representative and the beneficiary. [§ 405.910\(i\)\(4\)](#). See [I-5](#) for more information about representatives.

2. The appointed representative of any other party listed in subsections **3** through **5** below, if the file contains a valid appointment of representative. A separate notice need not be sent to the represented party, unless the case is a MSP appeal, in which case the notice must be sent to both the representative and the beneficiary. [§ 405.910\(i\)\(4\)](#). See [I-5](#) for more information about representatives and valid appointments.

3. The beneficiary (if other than the appellant), unless the beneficiary assigned his or her appeal rights under [§ 405.912](#), or the appellant is the applicable plan in a MSP case [§ 405.906\(a\)\(4\)](#);

Exception: In overpayment cases involving multiple beneficiaries, where there is no beneficiary liability, the ALJ may choose to send written notice only to the appellant. [§ 405.1046\(a\)](#).

NOTE: If the beneficiary should be notified, but is deceased, the notice is sent to the estate or personal representative/executor.

4. The provider or supplier (if other than the appellant), unless the it is an MSP case under [§ 405.924\(b\)\(16\)](#) or the provider or supplier is not a party under [§ 405.906](#); and
5. Any other party to the appeal (for example, a Medicaid State Agency that is a party to the appeal).

NOTE: The Notice of Dismissal or Notice of Recommended Decision must identify the additional recipients to whom the notice was sent.

C. Timing of the Mailing

Dispositions packages must be mailed to the recipients on the same date that appears on the disposition document and corresponding Decision Letter Mailed (DLM) date in MAS.

II-13-4 Shipping the Case File

A. Overview

1. Once the case is closed in MAS and the disposition package is mailed to the appropriate recipients in accordance with II-13-3, the case file is prepared for shipment to the appropriate entity for effectuation and storage.
2. The OMHA Shipping Coversheet must be completed and stapled to the case file folder. If there are multiple folders, the OMHA Shipping Coversheet is affixed to the first file. The coversheet must indicate:
 - The type of appeal (for example, Part C or QIO);
NOTE: For QIO appeals, the coversheet must include the name of the QIO.
 - The appeal disposition;
 - Whether a hearing CD is enclosed, or in the case of an on-the-record (OTR) decision, if a CD is not required; and
 - The name of the adjudicator.
3. Case files must be identified as ready to ship by placing the files in a designated area in accordance with local procedures.

B. Method of Shipping

Case files must be shipped via tracked mail and in accordance with local procedures. For example, local procedures may call for shipping via USPS, UPS, or other OMHA-approved service.

C. Where to Send the Case File

1. Decisions and dismissals issued on an appeal from a QIC reconsideration.

If the case arose from a QIC reconsideration, or was escalated from a QIC, and a decision or dismissal is issued, the case file is mailed to the AdQIC.

2. Remands to a QIC.

If the case arose from a QIC reconsideration or QIC dismissal, and the disposition is a remand, the case file is mailed to the QIC that issued the reconsideration, with the remand order.

NOTE: If the contract for QIC services has changed such that the case file cannot be shipped to the QIC that issued the reconsideration, follow the guidance issued by CMS on where to send requests for reconsideration as a result of the change.

Example. CMS issued guidance stating that effective November 15, 2011, QIC-A will take over the QIC contract and begin processing reconsideration requests for QIC-B. CMS guidance states that effective November 15, 2011 requests for reconsideration should be sent to QIC-A instead of QIC-B. On January 1, 2012, the ALJ issues a remand in a case where the reconsideration decision was processed by QIC-B. Because CMS has issued guidance that QIC-A is taking over the contract for QIC-B effective November 15, 2011, the case is remanded to QIC-A.

3. All cases appealed from a QIO reconsideration.

All cases that were appealed from a QIO reconsideration will be mailed to the QIO that issued the reconsideration.

NOTE: If the contract for QIO services has changed such that the case file cannot be shipped to the QIO that issued the reconsideration, follow the guidance issued by CMS on where to send requests for reconsideration as a result of the change.

Example. CMS issued guidance stating that effective November 15, 2011, QIO-A will take over the QIO contract and begin processing reconsideration requests for QIO-B. The guidance states that effective November 15, 2011 requests for reconsideration should be sent to QIO-A instead of QIO-B. On January 1, 2012, the ALJ issues a remand in a case where the reconsideration decision was processed by QIO-B. Because CMS has issued guidance that QIO-A is taking over the contract for QIO-B effective November 15, 2011, the case is remanded to QIO-A.

D. Timing of Shipping

Case files must be shipped within the following timeframes:

1. For cases routed to the AdQIC, within 5 business days of the date on the disposition document and Decision Letter Mailed (DLM) date in MAS.
2. For remands routed to the QIC, within 5 business days of the date on the disposition document and DLM date in MAS.
3. For appeals to be shipped to a QIO, within 48 hours of the date on the disposition document and DLM date in MAS.

NOTE: If the deadline for shipping the case falls on a weekend or holiday, the deadline for mailing the case file moves to the next business day.

Example: The ALJ decision in an appeal from a QIO reconsideration is dated on Thursday, April 23. The deadline for shipping the case is 48 hours later, which falls on a Saturday. Because the deadline falls on a weekend, the deadline moves to the next available business day. In this example, the file must be shipped by Monday, April 27.

E. Record of Shipment

Mailroom staff in each field office will generate a packing list (manifest) that lists all of the appeals contained within each box of a shipment and notate if an appeal involves multiple folders, or if the record for a single appeal is contained in multiple shipment boxes. The field office will maintain at least one copy of the packing list and one copy will be included in the applicable box. The field office will also maintain tracking information for the shipment.

F. Shipment Quality Assurance

Before shipping the case files, perform the following quality assurance check:

1. The OMHA Shipping Coversheet completed in step 13-1 C.2, above, must be removed from the front of the case file and placed in the ALJ working file.
2. In accordance with II-4-3 E, case files must have all documents pronged or otherwise affixed to the folder.
3. Rubber bands may be used in addition to prongs to ensure documents do not become separated from folders or binders, as appropriate.
4. Case files must be properly secured in the box to ensure the integrity of the file contents during shipping.
5. The contents of the box must be verified against the packing list to ensure that the box contains all of the files listed, and no additional files or unlisted materials are present.
6. Applicable weight restrictions for boxes must be followed and boxes must be securely taped, that is, double taped at all seams with standard packaging tape.