

Chapter IV-2 Docketing and Assignment

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IV-2-1 Establishing Appeals (Cases) for OMHA Adjudication

A. Standard for Establishing New Appeals

Unless otherwise indicated in this Manual, a new individual case is established for a single reconsideration or other decision appealed to OMHA (for example, a Part D QIC reconsideration decision with a unique control or appeal number).

B. Standards for Reestablishing Appeals

1. Remand from the Council.

Unless otherwise instructed by the Council, an appeal is reestablished for a case remanded from the Council, using the prior ALJ appeal number with an “R#” suffix (in which the # indicates the number of times the appeal has been reestablished, beginning with 1).

NOTE: If the Council addressed multiple appeals in the same Council decision, an appeal is reestablished for each appeal, and the remand decision must be copied for each reestablished appeal.

2. Returned Remand from CMS Contractor.

An appeal is reestablished for a case that was remanded to a Part D QIC for information, and returned to OMHA with the contractor’s response or upon the ALJ vacating the remand order, using the prior ALJ appeal number with an “R#” suffix.

NOTE: If an ALJ remand vacated a dismissal and the contractor subsequently issued a reconsideration on the merits, an appeal of the reconsideration is treated as a new appeal and not processed as a reestablished appeal.

3. Reopened Appeal.

An appeal is reestablished for a case that the ALJ reopens in accordance with §§ [423.1980](#) through [423.1986](#), using the prior ALJ appeal number with an “R#” suffix.

NOTE: The appeal is only reestablished if the ALJ orders that the decision is reopened. An appeal is not reestablished based merely on a party’s request to the ALJ to reopen the decision.

NOTE: An appeal cannot be reestablished if an appeal on the same claim is pending at another level (for example, a request for review was filed with the Medicare Appeals Council). If pending at another level, the request will be returned to the sender.

NOTE: An appeal that was dismissed cannot be reestablished through reopening.

C. Establishing the Working Folder

1. Standard Part D Appeal.

- a. A working folder (also referred to as an ALJ folder) is established for each case with a unique ALJ appeal number. The Director of Central Operations may establish processes to ensure the working folder is established in accordance with this section before the folder is sent to the assigned ALJ.
- b. Folders are color coded as follows:

| Color Chart for Working Folders | |
|--|---------------|
| Part A/B QIC | Manila |
| Part A/B QIO | Yellow |
| Part C | Purple |
| Part C QIO | Yellow |
| Part D | Blue |
| Part D Expedited | Red |
| Entitlement | Grey |
| IRMAA | White |
| Reestablished Appeal | Orange |

- c. The request for hearing (original or a copy if the request resulted in multiple cases) and all other filings received with the request (or copies thereof) must be hole-punched and secured in the working folder with prongs.
 - If a request and its associated materials cannot be accommodated in a single folder, OMHA Central Operations will include materials in one or more secondary folders or one or more boxes.

2. Expedited Part D appeal.

For Part D expedited appeals, Central Operations places the imaged ALJ folder contents in a location accessible by the field offices. The imaged folder contents must be printed and placed in the red ALJ folder as described in subsection **C.1.c**, above, by the assigned field office.

D. Identifying Priority Appeals

Any appeal that is prioritized in accordance with the OMHA prioritization policy must have a commonly understood visual indicator on the working file (for paper records) or the electronic record and reports or task assignments (for electronic records).

E. Grouping Appeals

1. Appellant request for aggregation.

If the request for hearing includes a request for aggregation to meet the amount in controversy requirement, the appeals covered by the aggregation will be maintained together for assignment as a group.

- If the available records demonstrate that the amount in controversy is met for each claim being appealed, the Director of Central Operations may treat the request for aggregation as a request for consolidation or case grouping.
- If the request for aggregation references a request for hearing that was previously filed, the request for aggregation is not acted on and the request for hearing proceeds as an independent filing.

2. Appellant requests for consolidation or case grouping.

If the request for hearing includes a request for consolidation, case grouping, or other request to maintain the cases together, the Director of Central Operations may, but is not required to, accommodate the request, provided the orderly adjudication of appeals is not impacted.

3. Appeals filed by the same appellant (no request made by the appellant).

The Director of Central Operations may group appeals filed by the same appellant for administrative efficiencies, provided that:

- Any applicable adjudication time frame would not be significantly impacted by the grouping; and
- The grouping does not impact the orderly adjudication of appeals (for example, the number of claims involved will not significantly disrupt the adjudication of other appeals assigned to the typical adjudication team).

IV-2-2 Docketing Appeals (Cases)

A. New Promotable Appeals

1. Promotable appeals are appeals for which data is available in MAS for the determination being appealed, such as Part D QIC reconsiderations. The case processing system will generate a new, unique appeal number for the appeal.
2. Data must be entered or verified in accordance with data standards for promotable appeals established jointly by the Director of Field Operations and the Director of Central Operations, in coordination with the Director of Information Management and Systems.

B. New Non-Promotable Appeals

1. Promotable appeals are appeals for which data is not available in MAS for the determination being appealed. MAS will generate a new, unique appeal number for the appeal.
2. Data must be entered in accordance with data standards for non-promotable appeals established jointly by the Director of Field Operations and the Director of Central Operations, in coordination with the Director of Information Management and Systems.

C. Reestablished Appeals

NOTE: While MAS uses the term “reopen” to generically refer to any appeal that is reestablished in the system, the OCPM uses the term “reestablished” appeal to avoid confusion with the regulatory constructs of a reopened appeal and hearing. Appeals may be reestablished based on a regulatory reopening, a remand from the Medicare Appeals Council, or a returned remand from a CMS contractor.

1. Reestablished appeals are appeals for which data is available in MAS from the prior OMHA adjudication. MAS will repurpose the prior ALJ appeal number, with the “R#” suffix (in which the # indicates the number of times the appeal has been reestablished, beginning with 1).
2. Data must be entered or verified in accordance with data standards for reestablished appeals established jointly by the Director of Field Operations and the Director of Central Operations, in coordination with the Director of Information Management and Systems.

IV-2-3 Acknowledging Appeals (Cases)

A. New Appeals (Not Misrouted)

1. Assigned Appeals.

For new appeals that are immediately assigned, a Notice of Assignment should be issued to the appealing party.

2. Unassigned Appeals.

For new appeals that are not immediately assigned, an Acknowledgement of Request should be issued to the appealing party, informing the appellant that the request was received and that a Notice of Assignment will be issued when the appeal is assigned for adjudication.

B. New Misrouted Appeals

If a request was misrouted, additional language must be included in the Notice of Assignment (for new assigned appeals) or the Acknowledgement of Request (for new unassigned appeals) to indicate:

1. The request was misrouted;
2. The date that it was received by OMHA; and
3. If the appeal is from a QIC reconsideration, the 90 calendar day adjudication time frame began on the date the entity specified in the reconsideration received the request, subject to a procedural review of the request.

C. Reestablished Appeals

No acknowledgement is sent from OMHA Central Operations for reestablished appeals. The adjudicator will send any necessary correspondence based on the circumstances of the appeal.

IV-2-4 New Appeal Assignments

Citations: § 423.2044.

A. Assignment Rotations and Considerations Generally

1. Appeal assignments are made in rotation so far as practicable, with considerations to ensure an even distribution of workload and adjudicator capacity to hear and decide appeals as promptly as possible for the appellant.
2. Appeals that qualify for a higher level of priority under an OMHA case processing prioritization policy (for example, Part D expedited hearing requests and other beneficiary or enrollee filed appeals), are assigned as they are received. Other appeals are held for assignment until an adjudicator has capacity for new appeals on his or her docket. Appeal assignments within priority categories are generally made on a first-in/first-out basis, subject to case and assignment groupings for administrative efficiencies.

B. Appeals with 29 or Fewer Claims

Appeals with 29 or fewer claims are generally assigned as adjudicator dockets can accommodate new assignments. Appeals from the same party may be grouped and assigned for added efficiencies.

C. Appeals with 30 or More Claims

Appeals with 30 or more claims are assigned as a separate rotation to ensure a balanced workload among adjudicators with available capacity to receive cases.

D. Geographic Considerations

Consideration is given to where the services were furnished in assigning appeals, and when workload permits, appeals will be assigned to an OMHA office in the same time zone, or if there is no office in the time zone, the closest OMHA office.

E. Appellant Request Considerations

1. Appellant Requests for Aggregation.

If a request for aggregation to meet the amount in controversy requirement is filed with a request for hearing, all appeals that are subject to the aggregation request will be assigned to the same adjudicator, unless the volume of appeals necessitates breaking up the groupings among different adjudicators.

NOTE: This does not apply if the aggregation request references requests for hearing that were not submitted together. See [IV-3](#) for more information on aggregation.

2. Appellant Requests for Consolidation / Grouping.

If a request for hearing is filed with a request to consolidate or group appeals, the appellant's request will be considered in assigning appeals, if the request furthers an efficient adjudication of the appeals and will not result in an uneven workload distribution.

NOTE: This does not apply if the consolidation/ grouping request references requests for hearing that were not submitted together.

NOTE: A request to consolidate prior to assignment does not require that the appeals are assigned to the same adjudicator. An appellant's request to consolidate is contemplated only for requests pending before the same adjudicator. See [§ 423.2044](#).

IV-2-5 Reestablished Appeal Assignments

A. Appeals Remanded or Returned from Departmental Appeals Board (DAB) (including Medicare Appeals Council)

Appeals that are remanded or returned from the DAB are assigned to the adjudicator to whom the appeal was previously assigned, unless otherwise directed by the DAB or the adjudicator is no longer with OMHA.

B. Appeals Returned from Remands to CMS Contractors

Appeals that are returned from remands to CMS contractors pursuant to [§ 423.2034\(a\)\(i\)](#) are generally assigned to the adjudicator to whom the appeal was previously assigned, unless the adjudicator is no longer with OMHA.

NOTE: This does not apply to an appeal of a reconsideration that resulted from a remand that vacated a dismissal of a request for reconsideration under [§ 423.2034\(b\)](#).

NOTE: If an adjudicator wishes to retain jurisdiction of the appeal, [§ 423.2034\(a\)\(ii\)](#) may be used to request information that can only be provided by CMS or its contractors, but the case must not have been closed out as a remand.

NOTE: If a new reconsideration is issued with a new Medicare Appeal Number (as opposed to an “R1” added to the prior Medicare Appeal Number), the request for hearing will be assigned in rotation.

C. Reopened Appeals

Appeals must be reopened by and assigned to the adjudicator who issued the decision being reopened, unless the adjudicator is no longer with OMHA. If the adjudicator is no longer with OMHA, the Chief Administrative Law Judge may reopen an appeal in accordance with the reopening rules in the same manner as the deciding adjudicator, or delegate the authority to another Administrative Law Judge.

IV-2-6 Reassigning Pending Appeals

A. Assigned Adjudicator Agreement

Subject to approval by the Associate Chief Administrative Law Judges of impacted field offices and the Chief or Deputy Chief Administrative Law Judge, appeals may be reassigned from one adjudicator to another adjudicator (within an office, or among offices) by agreement of the adjudicators.

B. Assigned Adjudicator Unavailable

1. Adjudicator Separated from OMHA.

If an adjudicator has separated from OMHA (for example, the adjudicator retired or took a position with another agency), the adjudicator's assigned appeals will be reassigned at the direction of the Associate Chief Administrative Law Judge (within an office) or the Chief or Deputy Chief Administrative Law Judge may direct the return of the appeals to Central Operations for assignment among all offices. Reassignments will be made in rotation so far as practicable to ensure an even distribution of workload among the receiving adjudicators.

2. Adjudicator on Extended Leave.

If an adjudicator has been or is expected to be on leave for more than 20 calendar days, the Associate Chief Administrative Law Judge of the office may direct the adjudicator's assigned appeals be reassigned to other adjudicators with the concurrence of the Chief or Deputy Chief Administrative Law Judge. Reassignments will be made in rotation so far as practicable to ensure an even distribution of workload among the receiving adjudicators.

C. Adjudication Delays

The Chief or Deputy Chief Administrative Law Judge may reassign an appeal if the adjudication time frame has passed and there is another adjudicator available to hear and decide the appeal more promptly than the originally assigned adjudicator.

D. Administrative Efficiency

The Chief or Deputy Chief Administrative Law Judge, in consultation with the Director of Central Operations, may reassign an appeal if there are multiple appeals for the same party that would be more efficiently adjudicated together (for example, if the appeals involve claims that were part of a statistical sample, or items or services furnished to the same beneficiary).

E. Appellant Requests for Reassignment

Requests made by appellants for reassignment of appeals to a different Administrative Law Judge will be reviewed by the Associate Chief Administrative Law Judge of the assigned field office and the Chief or Deputy Chief Administrative Law Judge or designee.

NOTE: The above provision does not apply to appellant objections to ALJ assignment made under the ALJ disqualification provisions of [§ 423.2026](#).

IV-2-7 Case Files for Assignment of Appeals

A. Paper Records, Assigning Working Files

After an appeal is docketed, a label with case information is created for the working folder. In addition, if an appeal qualified for prioritized processing and the folder does not already indicate that (for example, red folders indicate a Part D expedited appeal, which qualifies for prioritized case processing), a visual indicator must be placed on the working folder.

B. Paper Records, Ordering Case Files

For a Part D request for hearing, if the request was received without the case file from a CMS contractor, a request for the case file is made by Central Operations after the appeal is assigned to an adjudicator.

- The case file request must direct the case file to the assigned field office.
- If the case file is not received within 10 days, a second request is made by the assigned Field Office; if the case file is not received within five days of the second request, the case should be remanded to the contractor with instructions to produce the record upon which the appealed reconsideration was made, which is information that can only be provided by CMS or its contractors.

C. Paper Records, Transmitting Files to Adjudicators

1. Requests received with case files.

If a request was received with the case file (for example, a request for escalation of a request for a QIC reconsideration will come with the case file from the QIC), the working folder and the case file will be transmitted to the assigned field office, for distribution to the assigned adjudicator.

2. Requests received without case files.

If a request was received without the case file (for example, a request for hearing was received directly from the appellant and the case file was requested from the QIC), the working folder will be transmitted to the assigned field office, for association with the case file sent from the CMS contractor and distribution to the assigned adjudicator.

D. Electronic Records, Scanning Paper Requests and Submissions

For appeals that are approved for processing as “e-files,” the administrative record will be maintained as electronic images. Any paper requests and accompanying submissions must be scanned and associated with the electronic record.

IV-2-8 Adding and Removing Claims, and Combining Appeals (Cases)

Citations: §§ 423.2044, 423.2032.

A. Adding Claims to an Appeal

1. Favorable Claims.

A Claim or specific item or service within a claim that was decided favorably for the appellant in the initial determination, redetermination, or reconsideration, will not be associated to an appeal, unless:

- a. The issue on appeal involves the amount Medicare paid for a claim (and therefore may be characterized as favorable by a CMS contractor because the claim was paid).

OR

- b. The ALJ makes a determination to consider the favorable claims or items or services within a claim; and
- c. Notice is provided before the hearing to the parties that a favorable portion of the prior determinations will be considered at the hearing.

2. New Claims.

A claim that was not addressed in any of the CMS contractor determinations involved in the appeal cannot be added to a pending appeal unless:

- a. The claim has been fully adjudicated through the reconsideration level;
- b. A request for hearing on the reconsideration has not already been filed;
- c. A request for hearing on the reconsideration would be timely if it was filed on the day the determination to add the claim is made; and
- d. Notice is provided to all parties that the new claim will considered in the appeal.

B. Removing Claims from an Appeal

1. Unappealed Unfavorable or Partially Favorable Claims.

In appeals with multiple claims at issue, claims that were decided unfavorably or partially favorably for the appellant in the CMS contractor determinations may be removed from an appeal upon notice to the parties in writing or at the hearing that the request did not identify the claims and they will therefore not be considered.

NOTE: If an appellant concedes that claims do not meet coverage or payment criteria, the claims may not be removed from the appeal, but rather result in an unfavorable

decision on the claims or dismissal of the claims pursuant to a partial withdrawal of the request for hearing by the appellant.

2. To Create a New Appeal.

Claims may not be removed from an appeal to create a new appeal unless:

- a. The appeal resulted from a combination of reconsiderations; and
- b. The effect of the action is to un-combine the appeals, or to remove one or more reconsiderations, to create a new appeal (but in no instance may a new appeal be created that splits the claims in a single reconsideration into one or more new appeals).

C. Combining Appeals

1. Consolidation of the Decision

Appeals that are consolidated for decision by the ALJ may be combined into one ALJ appeal number, in accordance with [§ 423.2044](#), which provides that the decision and record for multiple appeals can be consolidated after a consolidated hearing is conducted. Alternatively, the ALJ may issue a separate decision and record for each appeal.

2. For Administrative Efficiency.

The Director of Central Operations may combine appeals into a single appeal for adjudication prior to assignment, provided that:

- The appeals are filed by a single appellant;
- There is no indication at the time of filing that a non-appellant party was held liable after the initial determination or participated in the reconsideration;
- The initial determinations (or revised initial determinations) were processed by the same CMS contractor (for example, the same Medicare Administrative Contractor processed all of the initial determinations on the claims that will be involved in the appeal);
- The appeals involve the same or related item or service (based on the billed codes); and
- The grouping does not impact the orderly adjudication of appeals (for example, the number of claims involved will not significantly disrupt the adjudication of other appeals assigned to the typical adjudication team).

Division IV: Part D Organization Determinations

The determination by the Director of Central Operations is not subject to review or appeal, but may be revised or reversed by the Chief Administrative Law Judge or a designee.

3. Impact on Adjudication Time Frames.

If applicable, the adjudication time frame for a combined appeal is set by the earliest time frame of the appeals that are being combined (for example, if two appeals are combined and the time frame for one elapses on July 1, and the time frame for the other elapses on July 15, the time frame for the combined appeal elapses on July 1).