

OMHA Case Processing Manual

Chapter 9 REQUEST AND CORRESPONDENCE INTAKE, DOCKETING, AND ASSIGNMENT

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9.0 Chapter overview

(Issued: 02-01-19, Effective: 02-01-19)

A number of actions may initiate (or reinstate) proceedings at the OMHA level. This chapter provides information on where to direct appeal requests and submissions, and details the processes for docketing, acknowledging, and assigning cases. Once an appeal is initiated, the manner in which the case is docketed and assigned is based on a number of factors, including whether it is a new or re-established appeal. This chapter also explains when claims may be added or removed from an appeal and how to combine appeals. While this chapter deals primarily with processing appeals as paper files, it also includes guidelines for processing electronic case files in OMHA's Electronic Case Adjudication Processing Environment (ECAPE).

Caution: When taking the actions described in this chapter, ensure that all PII, PHI, and Federal Tax Information is secured and only disclosed to authorized individuals (internally, those who need to know).

9.1 Filing requests and case-related submissions

(Issued: 02-01-19, Effective: 02-01-19)

Generally, requests for hearing or requests for review of dismissals of requests for reconsideration, and other case-related submissions *that are filed with OMHA* (other than those case-related submissions that are sent directly to an adjudication team in an OMHA field office) are filed with Central Operations at the following address:

OMHA Central Operations
200 Public Square, Suite 1260
Cleveland, OH 44114-2316

However, there are several mail stops for more efficient identification and routing of certain types of correspondence, many of which are identified in OCPM 9.1.1, below. If a mail stop applies to an appeal, appellants and other filing parties or participants are encouraged to identify the mail stop in the attention line of the mailing address on the envelope.

Note: Failure to use an established mail stop does not affect the validity of a request or any applicable adjudication time frame, but may delay processing.

9.1.1 Where do parties send requests for hearing or review of a dismissal for . . .

9.1.1.1 Part A, Part B, Part C QIO, and standard (non-expedited) Part D appeals filed by beneficiaries or their representatives?

Requests are filed by mail directly with Central Operations. For requests filed by **beneficiaries** or their representatives (authorized or appointed) that are prioritized in accordance with [OCPM 7.4](#), the beneficiary or beneficiary representative is encouraged to use the following mail stop:

OMHA Central Operations
Attn: Beneficiary Mail Stop
200 Public Square, Suite 1260
Cleveland, OH 44114-2316

9.1.1.2 Expedited Part D appeals?

Expedited Part D appeals may be filed in writing by mail or fax, or orally by telephone.

Mailed requests are filed directly with Central Operations. Appellants are encouraged to use the following mail stop:

OMHA Central Operations
Attn: Expedited Part D Appeal Mail Stop
200 Public Square, Suite 1260
Cleveland, OH 44114-2316

Faxed requests are faxed to a dedicated Part D expedited appeal request fax number:

(216) 615-4116

Oral requests are filed by telephone using a dedicated Part D expedited appeal telephone number:

(866) 941-7012

Note: Oral requests for hearing or review are only acceptable in Part D expedited appeals. Telephone requests for appeals other than expedited Part D appeals will not be processed. OMHA will contact the requestor and ask him or her to submit the appeal in writing.

9.1.1.3 Part C non-QIO appeals?

Requests are filed with the Part C IRE and forwarded, along with the case file, to Central Operations at the address specified in OCPM 9.1.

9.1.1.4 Appeals of SSA reconsiderations?

Requests are filed with SSA and forwarded, along with the case file, to Central Operations at the address specified in OCPM 9.1.

9.1.2 Where do appeal participants send other case-related submissions, such as . . .

9.1.2.1 A request for escalation from OMHA to the Council?

For **assigned** appeals (appeals that have been assigned to a specific ALJ or attorney adjudicator for adjudication), requests are sent to the attention of the assigned adjudicator at the adjudicator's hearing office (see OMHA's [website](#) for hearing office mailing addresses).

For **unassigned** appeals (that is, appeals that are in Central Operations awaiting assignment to an ALJ or attorney adjudicator), requests are sent to Central Operations. Appellants are encouraged to use the following mail stop:

OMHA Central Operations
Attn: Escalation Mail Stop
200 Public Square, Suite 1260
Cleveland, OH 44114-2316

See [OCPM 7.5](#) for more information on escalation. Appellants may, but are not required to, file requests for escalation using a Request for Escalation to Medicare Appeals Council (OMHA-384).

9.1.2.2 A request to withdraw a previously filed request for hearing or review of a dismissal?

For **assigned** appeals, requests are sent to the attention of the assigned adjudicator at the adjudicator's hearing office (see OMHA's [website](#) for hearing office mailing addresses).

For **unassigned** appeals, requests are sent to Central Operations. Appellants are encouraged to use the following mail stop:

OMHA Central Operations
Attn: Withdrawal Mail Stop
200 Public Square, Suite 1260
Cleveland, OH 44114-2316

See [OCPM 17.1.11](#) for more information on withdrawals. Appellants may, but are not required to, file requests to withdraw using a Withdrawal of Request for Administrative Law Judge Hearing or Review of Dismissal (OMHA-119).

9.1.2.3 A request for substitution of party upon death of a beneficiary or enrollee?

For **assigned** appeals, requests are sent to the attention of the assigned adjudicator at the adjudicator's hearing office (see OMHA's [website](#) for hearing office mailing addresses).

For **unassigned** appeals, requests are sent to Central Operations. Prospective parties are encouraged to use the following mail stop:

OMHA Central Operations
Attn: Substitution of Party Mail Stop
200 Public Square, Suite 1260
Cleveland, OH 44114-2316

Prospective parties may, but are not required to, file requests to substitute using a Request for Substitution of Party upon Death of Beneficiary or Enrollee (OMHA-106).

9.1.2.4 Revocation of assignment of appeal rights?

For assigned appeals, requests are sent to the attention of the assigned adjudicator at the adjudicator's hearing office (see OMHA's [website](#) for hearing office mailing addresses).

For **unassigned** appeals, requests are sent to Central Operations. Beneficiaries are encouraged to use the following mail stop:

OMHA Central Operations
Attn: Administrative Mail Stop
200 Public Square, Suite 1260
Cleveland, OH 44114-2316

9.1.2.5 New evidence?

For **assigned** appeals, new evidence is sent to the attention of the assigned adjudicator at the adjudicator's hearing office (see OMHA's [website](#) for hearing office mailing addresses).

For **unassigned** appeals, new evidence is sent to Central Operations. Parties are encouraged to use the following mail stop:

OMHA Central Operations
Attn: New Evidence Mail Stop
200 Public Square, Suite 1260
Cleveland, OH 44114-2316

Parties may, but are not required to, file new evidence using a Filing of New Evidence (OMHA-115).

9.1.2.6 A waiver of the right to an ALJ hearing or a withdrawal of a previously filed waiver of the right to an ALJ hearing?

For **assigned** appeals, waivers and withdrawals of waivers are sent to the attention of the assigned adjudicator at the adjudicator's hearing office (see OMHA's [website](#) for hearing office mailing addresses).

For **unassigned** appeals, waivers and withdrawals of waivers are sent to Central Operations. Parties are encouraged to use the following mail stop:

OMHA Central Operations
Attn: Waiver Mail Stop
200 Public Square, Suite 1260
Cleveland, OH 44114-2316

See [OCPM 14.2.4](#) for more information on waivers of the right to an ALJ hearing. Parties may, but are not required to, waive the right to an ALJ hearing using a Waiver of Right to an ALJ Hearing (OMHA-104). Parties may, but are not required to, withdraw a previously filed waiver using a Withdrawal of Waiver of Right to an ALJ Hearing (OMHA-114).

9.1.2.7 A request for review of a remand?

Requests are sent to Central Operations. Parties, CMS, CMS contractors, and Part D plan sponsors are encouraged to use the following mail stop:

OMHA Central Operations
Attn: Remand Review Mail Stop
200 Public Square, Suite 1260
Cleveland, OH 44114-2316

Upon receipt of a valid request, Central Operations forwards the request to the Chief ALJ or a designee for review.

See [OCPM 20.8](#) for more information on requests for review of a remand. Parties, CMS, CMS contractors, and Part D plan sponsors may, but are not required to, file requests for review of remands using a Request for Review of Remand (OMHA-107).

9.1.2.8 Other case-related submissions?

For **assigned** appeals, other case-related submissions (submissions not otherwise classified in this section) are sent to the attention of the assigned adjudicator at the adjudicator's hearing office (see OMHA's [website](#) for hearing office mailing

addresses). If they are sent to Central Operations, Central Operations will forward the materials to the assigned adjudicator attached to an Interoffice Transmittal (OMHA-204).

For **unassigned** appeals, other case-related submissions are sent to Central Operations to be retained with the request for hearing, using the following address:

OMHA Central Operations
200 Public Square, Suite 1260
Cleveland, OH 44114-2316

9.1.3 Where do CMS and CMS contractors send elections to be a participant or party to an appeal?

For **assigned** appeals, prior to a hearing being scheduled, elections are sent to the attention of the assigned adjudicator at the adjudicator's hearing office (see OMHA's [website](#) for hearing office mailing addresses).

For **unassigned** appeals, elections are sent to Central Operations using the following mail stop:

OMHA Central Operations
Attn: CMS and CMS Contractor Elections Mail Stop
200 Public Square, Suite 1260
Cleveland, OH 44114-2316

See [OCPM 6.5](#) for more information on CMS and CMS contractor elections. CMS and CMS contractors may, but are not required to, communicate elections prior to a hearing being scheduled using a Notice of Intent to Participate in Proceedings on a Request for an ALJ Hearing or to be a Party to an ALJ Hearing (OMHA-105).

9.1.4 What methods of filing are accepted?

Mail or hand delivery

Mail or hand delivery of written filings is permitted in all instances.

Telephone

Requests for hearing or review of a dismissal of **expedited Part D** appeals may be filed at any time via the Central Operations designated expedited Part D telephone line (see OCPM 9.1.1.2).

For filings *other than* expedited Part D appeal requests, filing by telephone is only permissible where an applicable regulation does not require that the filing be in writing.

Example: Parties to a Part A or Part B ALJ hearing are required to reply to a notice of hearing by acknowledging whether they plan to attend the hearing at the time and place proposed in the notice of hearing, or whether they object to the proposed time and/or place of the hearing.¹ If a party objects to the time and place of the hearing, the regulations require that the party notify the ALJ in writing, except for requests to reschedule a hearing in an emergency circumstance the day prior to or day of the hearing.²

If a party does not object to the proposed time and/or place of the hearing, there is no requirement that the party's acknowledgment be in writing. Therefore, oral acknowledgments may be made by telephone and documented in a Report of Contact (OMHA-101) (see [OCPM 14.6.1](#)).

Fax

Requests for hearing or review of a dismissal of **expedited Part D** appeals may be filed at any time via the Central Operations designated expedited Part D fax line (see OCPM 9.1.1.2).

For filings *other than* expedited Part D appeal requests, faxing of written submissions is permitted, but is not encouraged without prior contact with OMHA staff to ensure the filer's and OMHA's obligations to protect PII are observed. Prior contact allows filers to verify the appropriate fax number and helps ensure OMHA staff are available to immediately retrieve faxes from a shared fax machine.

Email

Requests for hearing or review of a dismissal are not accepted via email due to systems and information security constraints.

For all case-related submissions *other than* requests for hearing or review, OMHA may accept delivery by email, but staff should advise the sender prior to sending, where possible, that submissions containing PII must be sent in a secure manner, such as in an encrypted email or via a secure portal that requires an OMHA user to create an account

¹ 42 C.F.R. § 405.1020(c)(2)(i).

² 42 C.F.R. § 405.1020(e).

to receive secure messages. OMHA staff must take additional steps to protect any PII received in an unencrypted email.³

Example: At a hearing, the appellant asks to submit additional medical records by email. The ALJ may accept the submission, but should remind the appellant to safeguard beneficiary PII by encrypting the email or its attachments, or by sending the adjudication team a link to a secure web-based portal where the records may be retrieved.

9.1.5 How do we calculate the date of receipt?

The date of receipt is the business day that OMHA receives the filing. For details on the processing (date-stamping) of receipts, see OCPM 9.2.

- Mailed or hand-delivered filings must be delivered by the courier to the receiving office no later than the receiving office's normal close of business of 4:30 p.m., local time, to be considered filed on that day. Central Operations is located in Cleveland, Ohio, and operates on eastern time.
- If an alternate method of filing is available or permitted (for example, an **expedited Part D** oral or faxed request), the filing must be received by 11:59 p.m. in the time zone of the receiving office, to be considered filed on that day.

Note: When the last day for timely filing falls on a weekend, Federal holiday, or any other day that the receiving OMHA office is closed for business (for example, due to inclement weather), the time frame for filing is automatically extended to the next business day that the OMHA office is open for business.

Note: If a request for hearing or review is received by an office other than the entity specified in the notice of reconsideration (for example, an OMHA field office, or a QIC's office), the date the incorrect office received the request is used to determine timeliness. However, the date the correct office receives the forwarded request begins any applicable adjudication time frame.⁴

Note: An adjudicator may impose an earlier time of day (for instance, close of business) as the deadline for filings in his or her assigned appeals.

³ CJB 17-002, § V.C.2.

⁴ 42 C.F.R. § 405.1014(c)(2), 423.2014(d)(2).

9.2 Processing requests and submissions

(Issued: 02-01-19, Effective: 02-01-19)

9.2.1 How do we process . . .

9.2.1.1 General submissions for a specific appeal?

Written documents

Record the business day that an OMHA office received the filing with a date stamp or an automated system equivalent on the envelope and the filed materials. A copy of the date-stamped envelope with the post mark or the actual envelope and any other mail processing information must be retained with the envelope contents, even if the submission was mailed via tracked mail (for example, United Parcel Service (UPS), FedEx, or certified mail).

- Handwriting is not permitted, *except* when office management requires the initials of the individual date stamping the document.
- The date stamp is placed in the upper right corner of the filing, *unless* such placement would obscure the contents of the filing.

Oral requests (expedited Part D appeals only)

Record the business day that the oral request for hearing or review was received by Central Operations on a Documentation of Part D Oral Request for Expedited Hearing/Review (OMHA-601) form, along with the information provided by the caller. For voicemails, record the business date the voicemail was recorded and not the date it was retrieved by OMHA staff.

9.2.1.2 Multiple filings?

If there are multiple filings in a single mailing or delivery package, date-stamp each filing or group of documents in the package. If a filing or group of documents applies to multiple appeals, a copy must be made for each appeal record.

Example: A mailing contains a request for hearing, along with a position paper and a set of medical records. The request for hearing, the position paper and the set of medical records are each individually date-stamped.

9.2.1.3 Electronic media (compact discs, digital video discs, thumb drives)?

Requests for hearing or review

Requests for hearing or review cannot be accepted on electronic media. Requests that are received on electronic media must be re-submitted.

Other materials

Materials *other than* requests for hearing or review may be accepted on electronic media that meets the following requirements:

- The electronic media must clearly identify the appeal the submission is to be associated with;

Example: A paper request for hearing or cover letter that accompanies the electronic submission references the OMHA appeal number or reconsideration appeal number.

- Materials that contain PII must be encrypted, and the password to unencrypt the files must be separately conveyed to OMHA;

Example: A cover letter submitted with the encrypted CD includes a telephone number for OMHA to call in order to obtain the password to unencrypt the CD.

- The aggregate size of the files contained on the electronic media must be less than 250 MB; and
- The electronic media must be saved in one of the following file formats:
 - Microsoft Office file extensions without macro-embedded files;
 - OpenOffice file extensions without macro-embedded files;
 - PDF without embedded JavaScript or executable files;
 - RTF;
 - BMP;
 - JPEG;
 - PICT;
 - PNG;
 - TIFF;
 - CSV;

- TXT; or
- Windows Media Player-compatible audio/video file extensions.

Note: OMHA cannot accept any electronic files created by file compression utilities (for example, a file with a ZIP extension).

Contact your field office VTC/IT Specialist to scan any submitted electronic media for malware and viruses before attempting to access any of the files. An index of the electronic file names and the contents of each file should be created or requested from the filer, and included in the administrative record. For encrypted materials, the password to unencrypt the materials must be maintained in the case processing system. If the appeal is processed electronically, the files are uploaded to the case processing system and associated with the electronic record.

If OMHA receives an electronic media submission that does not meet any of the above requirements, send the filer a Notice of Rejected Electronic Media (OMHA-124). The notice explains why the submission does not meet OMHA requirements and advises the sender that the media will be destroyed unless the sender contacts OMHA within the time frame specified in the letter and requests that the media be returned, or provides additional information that resolves the issue (for example, the password for encrypted submissions).

9.2.2 How do we direct misrouted filings that were . . .

9.2.2.1 Routed to an incorrect OMHA office?

For filings in **priority 3 appeals** (see [OCPM 7.4](#) for information on OMHA's adjudication prioritization policy) that are misrouted to the incorrect OMHA office, forward the filing to the correct OMHA office within **5 calendar days** of mail processing.

For filings in **priority 1 and 2 appeals** that are misrouted to the incorrect OMHA office, forward the filing to the correct OMHA office by the **next business day**.

In both circumstances, attach the misrouted filing to an Interoffice Transmittal (OMHA-204). See OCPM 9.4.2 for requirements related to acknowledging a misrouted request for hearing.

Example: An unrepresented beneficiary mistakenly sends a request for hearing to an OMHA field office. Because beneficiary-initiated appeals are prioritized

under OMHA's case prioritization policy, the field office is responsible for forwarding the request to Central Operations no later than the next business day after receiving the request.

Note: The receiving office and the office to which the filing is forwarded must each document their respective receipt dates of the misrouted filing in accordance with OCPM 9.2.1.1.

9.2.2.2 Routed to OMHA instead of the correct HHS component or agency?

If **sufficient information** exists to immediately determine the correct HHS component (for example, a CMS contractor or the DAB) or agency (for example, SSA), and the filing was **submitted by or on behalf of a beneficiary**, or it is otherwise a **time-sensitive matter**, send to the appropriate recipient by the **next business day**.

For **all other filings**, the filing must be forwarded within **5 calendar days** of mail processing. Use a Forwarding Letter (OMHA-121) to inform the appropriate recipient that the materials were misrouted to OMHA.

If **insufficient information** exists to immediately determine the correct recipient, the correct recipient must be identified and the filing forwarded within **14 calendar days** after processing the mail. If the correct recipient cannot be identified within 14 calendar days, return the filing to the sender with a Notice of Returned Mail (OMHA-117) from the receiving office director (that is, a Hearing Office Director, Division Director, or designee), explaining that the filing was misrouted and the materials are being returned to the sender.

Note: The receipt date of a misrouted filing is documented in accordance with OCPM 9.2.1.1.

9.3 Docketing appeals

(Issued: 02-01-19, Effective: 02-01-19)

When received by OMHA, Central Operations establishes or re-establishes an appeal at the OMHA level of appeal by docketing the appeal (entering case information into a case processing system). This system facilitates the assignment and tracking of appeals throughout the adjudication process.

9.3.1 What are promotable appeals?

Promotable appeals are appeals with data (case information) available in the Medicare Appeals System (MAS) for the determination being appealed, such as a QIC or IRE reconsideration.

9.3.2 What are non-promotable appeals?

Non-promotable appeals are appeals for which data (case information) is not available in MAS for the determination being appealed, such as QIO and SSA reconsiderations.

9.3.3 What are re-established appeals?

Re-established appeals are appeals for which data is available in the case processing system from a prior OMHA adjudication. OMHA may re-establish an appeal for the following reasons:

- An adjudicator reopens a decision (*see* [OCPM 20.6](#));
- An adjudicator vacates a dismissal (*see* [OCPM 20.7](#));
- The Chief ALJ or designee vacates a remand (*see* [OCPM 20.8](#));
- A CMS contractor or SSA returns a case following a remand from OMHA (*see* [OCPM 20.9](#)); or

Caution: If an adjudicator remands/vacates a dismissal of a reconsideration request and the CMS contractor subsequently issues a reconsideration on the merits with a new reconsideration number, OMHA treats an appeal of the reconsideration as a new appeal (that is, the appeal is not re-established using the prior OMHA appeal number).

- The Council remands the appeal to OMHA (*see* [OCPM 20.11](#)).

Note: If the Council addressed multiple OMHA appeal numbers in the same Council decision, an appeal is re-established for each OMHA appeal number, and a copy of the remand order must be included in the administrative record for each re-established appeal.

When a party requests that an adjudicator reopen a decision or vacate a dismissal, or that the Chief ALJ or a designee vacate a remand, the appeal is re-established only if the adjudicator, or the Chief ALJ or designee, orders that the decision be reopened or the dismissal or remand be vacated. An appeal is not re-established based solely on the party's request.

Note: While MAS uses the term "reopen" to generically refer to any appeal that is re-established in the system, the OCPM uses the term "re-established" appeal to avoid confusion with how the term "reopen" is used in the regulations.

9.3.4 How are OMHA appeal numbers assigned for new appeals?

A new individual case is established for the following, unless otherwise indicated in this chapter:

- A single reconsideration, dismissal, or other determination appealed to OMHA (for example, a QIC or QIO reconsideration decision with a unique control or appeal number, or a single SSA IRMAA or entitlement reconsideration).

Note: If more than one party appeals the same reconsideration, dismissal, or other determination to OMHA, the multiple appeal requests are consolidated into a single appeal and only one OMHA appeal number is established.⁵

- A single request for a Part A or Part B QIC reconsideration that has been escalated to OMHA.

Note: The appeal established at OMHA would include all redeterminations comprising the appealed reconsideration or escalated request for reconsideration.

⁵ See 42 C.F.R. § 405.1000(h).

For appeals processed in MAS, OMHA generates a new, unique appeal number for all appeals. For **promotable** appeals processed in ECAPE, OMHA retains the reconsideration appeal number, but replaces the leading “1-” with a “3-.” For **non-promotable** appeals processed in ECAPE, OMHA generates a new, unique appeal number leading with a “3-” and ending with an “M” (for example, 3-000000001M).

9.3.5 How are OMHA appeal numbers assigned for re-established appeals?

Except as noted below for cases processed in ECAPE and returned to OMHA following remand to a CMS contractor or SSA, when OMHA re-establishes an appeal (*see* OCPM 9.3.3), the appeal number for the re-established appeal is assigned as follows:

- For cases processed in MAS, the appeal is re-established using the prior OMHA appeal number with an “R#” suffix (where # indicates the number of times the appeal has been re-established, beginning with 1).
- For cases processed in ECAPE, the appeal is re-established using the prior OMHA appeal number with an “A#” suffix (where # indicates the number of times the appeal has been re-established, beginning with 1).

Note: For cases processed in ECAPE, if the CMS contractor or SSA reopened the appeal in order to respond to the remand, the CMS contractor or SSA may have appended an “R#” suffix. When the appeal is returned to OMHA, the “R#” suffix added by the CMS contractor or SSA is retained and an “A#” suffix added after it (for example, 3-123456789R1A1).

9.3.6 How do we group appeals . . .

9.3.6.1 When an appellant requests aggregation?

If the request for hearing includes a request for aggregation to meet the AIC requirement,⁶ the appeals covered by the aggregation request are maintained together for assignment as a group.

Note: If the available records demonstrate that the AIC is met individually for each claim being appealed, the Director of Central Operations may treat the request for aggregation as a request for consolidation or case grouping (*see* OCPM 9.3.6.2).

⁶ *See* 42 C.F.R. §§ 405.1006(e), 423.1970.

Note: An appellant may not aggregate claims, services, or prescription drug appeals in a new request for hearing, review, or escalation with claims, services, or prescription drugs in a previously filed request.⁷ If such a request is made, the request for aggregation and the newly filed request for hearing, review, or escalation are considered without regard to the previously filed request.

Caution: Aggregation does not apply to appeals from **SSA**.

9.3.6.2 When an appellant requests consolidation or case grouping prior to assignment?

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 or a designee may, but is not required to, accommodate the request, provided the orderly adjudication of appeals is not negatively impacted (that is, the grouping would not significantly disrupt the adjudicator's ability to adjudicate other assigned appeals).⁸

Note: The regulations contemplate consolidation only for "multiple appeals that are before the same ALJ or attorney adjudicator."⁹ Prior to assignment, a request for consolidation, case grouping, or other request to maintain the cases together is considered an informal request. The Director of Central Operations, or a designee, has discretion over any such requests.

9.3.6.3 When appeals are filed by the same appellant with no specific request for grouping, consolidation, or aggregation?

The Director of Central Operations, or a designee, may group appeals filed by the same appellant for administrative efficiency, provided that:

- Any applicable adjudication time frame would not be significantly impacted by the grouping; and

⁷ 42 C.F.R. §§ 405.1006(e)(1)(ii), 423.1970(c)(1)(ii), (c)(2)(ii). *See also* 82 Fed. Reg. 4974, 5009 (Jan. 17, 2017).

⁸ 42 C.F.R. §§ 405.1044(a), 423.2044(a).

⁹ 42 C.F.R. §§ 405.1044, 423.2044.

- The grouping does not negatively impact the orderly adjudication of appeals (that is, the grouping would not significantly disrupt the adjudicator's ability to adjudicate other assigned appeals).¹⁰

9.3.6.4 When appeals involve statistical sampling and extrapolation?

If multiple requests for hearing indicate the claims are related to a statistical sample and extrapolation conducted to assess an overpayment or by a prior level of appeal to adjudicate multiple appeals, the appeals will be grouped for assignment.

Note: For requests for hearing filed on or after March 20, 2017, that involve a challenge of statistical sampling and extrapolation, all sample claims the appellant wishes to appeal must be included in the request for hearing.¹¹

Note: If there is no indication in the request for hearing that the claims are related by a statistical sample and extrapolation, and the appeals are consequently assigned to different adjudicators, the appeals may later be reassigned in accordance with OCPM 9.7.1.

¹⁰ 42 C.F.R. §§ 405.1044(a)(3), 423.2044(a)(3).

¹¹ 42 C.F.R. § 405.1014(a)(3).

9.4 Acknowledging appeals

(Issued: 02-01-19, Effective: 02-01-19)

9.4.1 How do we acknowledge receipt of new (not misrouted) . . .

9.4.1.1 Assigned appeals?

For new appeals that are immediately assigned (**priority 1** and **priority 2 appeals**), OMHA issues an Acknowledgment of Filing and Notice of Assignment (OMHA-112) to the appealing party. See [OCPM 7.4](#) for more information on case prioritization.

9.4.1.2 Unassigned appeals?

For new appeals that are not immediately assigned (**priority 3 appeals**), OMHA issues an Acknowledgment Letter (OMHA-111) to the appealing party, informing the party that the request was received and that a Notice of Assignment (OMHA-113) will be issued when the appeal is assigned for adjudication.

9.4.2 How do we acknowledge new misrouted appeals?

If a request was misrouted (filed with the wrong office or at the wrong location), send a Notice of Misdirected Filing (OMHA-318), in addition to the Acknowledgment of Filing and Notice of Assignment (OMHA-112) (for new assigned appeals) or the Acknowledgment Letter (OMHA-111) (for new unassigned appeals). The Notice of Misdirected Filing (OMHA-318) includes:

- A statement that the request was misrouted;
- The date the request was received by Central Operations; and
- A statement that, if the appeal is subject to an adjudication time frame (see [OCPM 7](#)), the adjudication time frame began on the date the office specified in the reconsideration appeal instructions received the request, subject to a procedural review of the request.

9.4.3 How do we acknowledge re-established appeals?

Central Operations does not send an acknowledgment letter when it re-establishes appeals. The adjudicator will send any necessary correspondence based on the circumstances of the appeal (for example, a Notice of Reopening (OMHA-197)). See [OCPM 20](#) for more information on re-established appeals.

9.5 Assigning new appeals

(Issued: 02-01-19, Effective: 02-01-19)

Central Operations assigns appeals in rotation, so far as practicable,¹² with consideration given to adjudicator capacity and administrative efficiency to hear and decide appeals as promptly as possible for the appellant.

Appeals are generally assigned to an adjudicator as they are received, with assignments ordered in accordance with OMHA's case prioritization policy (for example, Part D expedited hearing requests are assigned before other requests, and most other beneficiary-initiated appeals are assigned before appeals initiated by other parties). See [OCPM 7.4](#) for more information on adjudication prioritization.

However, when the Chief ALJ determines that assigned appeals pending with adjudicators exceed their capacity to effectively manage and efficiently resolve cases, Central Operations will hold assignments of new requests, beginning with requests in the lowest case prioritization tier, until an adjudicator has the capacity for new appeals on his or her docket. Based on the number of requests being held for assignment, the Director of Central Operations may establish time periods from which those requests will be grouped and assigned to maximize case processing efficiencies.

Example: When the number of requests held for assignment is extensive, the Director of Central Operations may establish a practice of grouping and assigning requests filed within a single quarter (3 month period), beginning with the quarter in which the oldest request pending assignment was received. This variance from the general practice of "first-in, first-out" assignments provides for more efficient case processing techniques, such as using consolidated hearings for multiple appeals filed by the same provider throughout the quarter.

Note: Appeals may be held from assignment at the appellant's request (see [OCPM 9.5.2.3](#)) or based on the appellant's participation in an alternate resolution initiative or process that may resolve the appeals.

¹² 5 U.S.C. § 3105.

9.5.1 How is the appeal assignment procedure adjusted for . . .

9.5.1.1 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 appellant may be grouped and assigned for added efficiencies (*see* OCPM 9.3.6.3).

9.5.1.2 Appeals with 30 or more claims?

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

9.5.1.3 Geographic considerations?

OMHA considers the place items or services were furnished when assigning appeals, and when workload permits, appeals are assigned to an OMHA field office in the same time zone, or if there is no field office in that time zone, an OMHA field office in an adjacent time zone.

9.5.1.4 Appeals eligible for assignment to an attorney adjudicator?

Certain appeals are eligible for assignment to an attorney adjudicator because they likely do not require a hearing. Appeal assignments to attorney adjudicators are similar to appeal assignment for ALJs, with assignments made in rotation, depending on the available capacity of individual attorney adjudicator dockets.

9.5.2 How is appeal assignment affected by an appellant's . . .

9.5.2.1 Request for aggregation?

If a valid request for aggregation to meet the AIC requirement is filed with a request for hearing, all appeals that are subject to the aggregation request are assigned to the same adjudicator, *unless* the volume of appeals necessitates breaking up the groupings among different adjudicators. If the volume of appeals necessitates breaking up a grouping, each of the resultant groups will be composed of enough appeals to meet the AIC requirement.

Note: If an appellant requests aggregation and one or more of the claims in the aggregation request are subsequently involved in an alternative resolution initiative, the claim(s) will be removed from the aggregation request. However, for purposes of calculating the AIC, the removed claims are considered by the adjudicator.

9.5.2.2 Request for consolidation or grouping?

If a request for hearing is filed with a request to consolidate or group appeals, the 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.

9.5.2.3 Request for a hold on assignment?

If an appellant requests that an appeal or group of appeals not be assigned while the appellant pursues resolution of the appeals through other means (for example, by negotiations related to a civil lawsuit), the request will be considered by the Chief ALJ or a designee as a request for a stay of proceedings. If the request is granted and no other party also filed a request for hearing on the same claim or matter at issue, then the adjudication time frame is tolled for the duration of the stay order.¹³

9.5.3 How do we notify an appellant that its case has been assigned?

For **priority 3 appeals** that are not immediately assigned on receipt, a Notice of Assignment (OMHA-113) is sent to the appellant when Central Operations assigns the appeal to an adjudicator. The notice informs the appellant of the name and contact information for the assigned adjudicator or adjudication team and instructs that all future questions and correspondence regarding the appeal should be sent to the assigned adjudicator.

¹³ 42 C.F.R. §§ 405.1016(d)(2)(ii), 423.2016(c)(2)(ii).

9.6 Assigning re-established appeals

(Issued: 02-01-19, Effective: 02-01-19)

9.6.1 How do we assign appeals that are remanded or returned from the Council?

Assign appeals that are remanded or returned from the Council to the **previous OMHA adjudicator**, *unless*:

- The adjudicator has separated from OMHA;
- The adjudicator is on extended leave for more than 20 calendar days;
- The Council directs otherwise; or
- The Chief ALJ or Deputy Chief ALJ directs otherwise.

See [OCPM 20.11](#) for additional information on appeals remanded or returned from the Council.

9.6.2 How do we assign appeals that are returned to OMHA following a remand to a CMS contractor or SSA?

Assign appeals that are returned following a remand to a CMS contractor or SSA to the **previous adjudicator**, *unless* the adjudicator is no longer with OMHA or is on extended leave.

Note: If a new reconsideration is issued with a new Medicare Appeal Number (as opposed to an “R1” being added to the prior Medicare Appeal Number), the request for hearing will be assigned in rotation as a new appeal (see [OCPM 9.3.5](#)).

See [OCPM 20.9](#) for additional information about a CMS contractor or SSA response to an OMHA remand.

9.6.3 How do we assign reopened appeals?

Appeals are reopened by, and assigned to, the adjudicator who issued the decision being reopened, *unless* the adjudicator is no longer with OMHA or is on extended leave. If the adjudicator is no longer with OMHA or is on extended leave, the field office Associate Chief ALJ determines whether to reopen the decision. If an Associate Chief ALJ makes the reopening decision, the Associate Chief ALJ is assigned the reopened appeal.

See [OCPM 20.6](#) for additional information on reopened appeals.

9.6.4 How do we assign appeals following a vacated dismissal?

Appeals that are re-established following a vacated dismissal are assigned to the previous adjudicator, *unless* the adjudicator is no longer with OMHA or is on extended leave. If the adjudicator is no longer with OMHA or is on extended leave, the field office Associate Chief ALJ determines whether to vacate the dismissal. If an Associate Chief ALJ vacates the dismissal, the Associate Chief ALJ is assigned the re-established appeal.

9.6.5 How do we assign appeals following a vacated remand?

Appeals that are re-established following a vacated remand are assigned to the previous adjudicator, *unless* the adjudicator is no longer with OMHA or is on extended leave. If the adjudicator is no longer with OMHA or is on extended leave, the Associate Chief ALJ is assigned the re-established appeal.

9.7 Reassigning pending appeals

(Issued: 02-01-19, Effective: 02-01-19)

9.7.1 When may pending appeals be reassigned for administrative efficiency?

The Chief or Deputy Chief ALJ, in consultation with the Director of Central Operations, may reassign an appeal if there are multiple appeals for the same appellant 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). Additionally, subject to approval by the Associate Chief ALJs of affected field offices and in consultation with the Director of Central Operations, appeals may be reassigned from one adjudicator to another adjudicator (within a field office, or among field offices) by concurrence of the adjudicators.

9.7.2 How do we reassign an appeal when the assigned adjudicator is unavailable because . . .

9.7.2.1 The adjudicator separated from OMHA?

If an adjudicator separates from OMHA (for example, the adjudicator retires or takes a position with another agency), the adjudicator's assigned appeals are reassigned within the adjudicator's field office at the direction of the field office Associate Chief ALJ, or if workload requires, the Chief or Deputy Chief ALJ may direct the return of the appeals to Central Operations for assignment among all offices. Reassignments are made in rotation so far as practicable, to help ensure an even distribution of workload among the receiving adjudicators.

9.7.2.2 The adjudicator is on extended leave?

If an adjudicator has been or is expected to be on leave for more than 20 calendar days, the field office Associate Chief ALJ may direct reassignment of the adjudicator's assigned appeals (or a portion of the assigned appeals) to other adjudicators within the same field office. Reassignments will be made in rotation so far as practicable, to help ensure an even distribution of workload among the receiving adjudicators.

9.7.3 How do we reassign an appeal when prompted by adjudication delays?

The Chief or Deputy Chief ALJ, in consultation with the Director of Central Operations, may reassign an appeal if the adjudication time frame has passed and there is another adjudicator available to adjudicate the appeal more promptly than the originally assigned adjudicator.

9.7.4 How do we reassign an appeal that is no longer eligible for adjudication by an attorney adjudicator?

If an appeal assigned to an attorney adjudicator is not eligible for adjudication by an attorney adjudicator, the appeal is reassigned. For appeals that were assigned to an attorney adjudicator because the appellant waived the hearing, but subsequently require reassignment to an ALJ, the attorney adjudicator sends a request for reassignment via email to Central Operations, copying the Associate Chief ALJ for the attorney adjudicator's field office. For these reassignments, the following apply:

- Where a party withdraws or rescinds its waiver of an oral hearing in an appeal that would otherwise not be assigned, the appeal is returned to Central Operations to be placed back in assignment rotation (for example, if assignments of requests to ALJs are being held, and the Director of Central Operations has established a quarterly assignment process as discussed in the example to OCPM 9.5, the appeal is returned to Central Operations if it is a **priority 3 appeal** that was filed after the current assignment quarter for appeals assigned to an ALJ). When this occurs, the attorney adjudicator will issue a Notice of Return of Appeal to Unassigned Status (OMHA-123). Reassignment of the appeal will be made in accordance with OMHA's assignment policy set forth in OCPM 9.5;
- Where the assigned attorney adjudicator believes a hearing may be required, the appeal is reassigned to the field office Associate Chief ALJ for adjudication; and
- All other appeals requiring reassignment to an ALJ will be reassigned to the field office Associate Chief ALJ for adjudication (for example, an appeal that the attorney adjudicator believes may not meet the minimum AIC, or an appeal in which the party withdraws or rescinds its waiver of an oral hearing and the appeal would otherwise be assigned to an ALJ based on current assignment rotations).

Note: If an appeal is inadvertently assigned to an attorney adjudicator, but did not meet the eligibility requirements, the appeal will be placed back into regular rotation.

9.7.5 How do we reassign an appeal when the adjudicator withdraws?

An appeal is reassigned at any time if the adjudicator withdraws.¹⁴ The Chief or Deputy Chief ALJ, in consultation with the Director of Central Operations, will reassign the appeal to another ALJ or attorney adjudicator.

9.7.6 Do we notify the appellant when a case is reassigned?

For all appeals that are reassigned from one adjudicator to another, the adjudication team receiving the reassigned appeal is responsible for sending a Notice of Reassignment (OMHA-199) to the appellant. The notice informs the appellant of the new adjudicator's name and contact information, and instructs that all future questions and correspondence regarding the appeal should be sent to the newly assigned adjudicator. The notice is to be sent within five business days of reassignment within the case processing system or receipt of the case file for the reassigned appeal by the adjudication team, whichever is later.

¹⁴ 42 C.F.R. §§ 405.1026, 423.2026.

9.8 Working folders and case files

(Issued: 02-01-19, Effective: 02-01-19)

9.8.1 For a paper file, what is the process . . .

9.8.1.1 For creating a working folder?

Where an appeal will be adjudicated in paper, create a label with case information for the working folder. In addition, if an appeal qualifies for prioritized processing, the working folder must be clearly marked with a colored folder or label (for example, red folders indicate a Part D expedited appeal, which qualifies for prioritized case processing).

For each case with a unique OMHA appeal number, Central Operations or the assigned OMHA field office establishes a working folder containing the request for hearing or review and all other documents filed with OMHA.

Note: The request for hearing or review is placed in the working folder *only* for the purpose of transmittal to the adjudicator. It is moved to the case file upon review.

Working 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
Re-established Appeal	Orange

If a single request for hearing or review results in multiple appeals (that is, the appellant lists multiple appealed reconsiderations or dismissals in the request), a copy of the request for hearing or review and any materials common to all appeals are placed in each of the working files. The contents of the working file 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, one or more secondary folders or one or more boxes will be used. Each folder or box will be labeled to identify the total number of folders or boxes, for example “Box 1 of 2.”

9.8.1.2 For obtaining the case file?

Cases originating with a QIC or IRE

If the request was received without the case file from a QIC or IRE, Central Operations requests the case file after the appeal is assigned to an adjudicator.

- The case file request directs shipment of the case file to the assigned field office.
- Following receipt of a valid request for the case file, the CMS contractor has either 7 calendar days (for **single beneficiary** appeals) or 10 calendar days (for **multiple beneficiary** appeals and **Part D** appeals) to send the case file. If the assigned field office does not receive the case file by the end of the applicable time frame, the assigned field office makes a second request for the case file.
- If the field office does not receive the case file within 5 calendar days of a second request, the assigned adjudicator remands the case to the QIC or IRE with instructions to reconstruct the record or, if it is not able to do so, initiate a new appeal adjudication.¹⁵ See [OCPM 18](#) for more information on remands.

Cases originating with a QIO

If the request was received without the case file from a QIO, Central Operations requests the case file.

- If the case file is not received within 30 calendar days of the date of the request, the assigned adjudicator remands the case with instructions to

¹⁵ See 42 C.F.R. §§ 405.1056(a)(2), 423.2056(a)(2).

reconstruct the record or, if it is not able to do so, initiate a new appeal adjudication.

Cases originating with SSA

If the request was received without the case file from SSA, Central Operations requests the case file be directed to Central Operations prior to assignment. If Central Operations does not receive the case file within 14 calendar days of its request, the appeal is assigned to an adjudicator to issue a remand.

9.8.1.3 For transmitting files to adjudicators?

Requests received with case files

If a request was received with the case file, transmit the working folder and the case file to the assigned field office for distribution to the assigned adjudicator.

Note: Requests in **Part C appeals, SSA appeals**, and escalated **Part A or Part B appeals** are filed with the prior adjudicating entity and are shipped to Central Operations with the case file.

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, QIO, or Part D IRE), transmit the working folder to the assigned field office for association with the case file sent by the CMS contractor and distribution to the assigned adjudicator.

9.8.2 For an electronic file processed in ECAPE, what is the process . . .

9.8.2.1 For developing an electronic record?

For appeals that are processed electronically, the administrative record is maintained as electronic images. Any paper requests and accompanying submissions must be scanned and associated with the electronic record.

Note: ECAPE also has a working folder for records such as deliberative documents that would ultimately be retained in the working file in a paper-based environment.

9.8.2.2 For ordering the case file?

For appeals that are processed electronically, the process for ordering a case file not received with the request for hearing or review from a CMS contractor is similar to the process for paper files (see OCPM 9.8.1.2), except that the transmission of the case file from the CMS contractor to OMHA is electronic.

9.8.2.3 For transmitting files to adjudicators?

The electronic file is made accessible within ECAPE to the assigned adjudicator at the time of assignment, regardless of the status of any outstanding requests for missing files.

9.8.3 How are priority appeals identified?

Any appeal that is prioritized as a **priority 1** or **priority 2 appeal** (termed “Expedited” and “Priority,” respectively, in ECAPE) in accordance with OMHA prioritization policy (see [OCPM 7.4](#)) must be clearly identified. For paper records, the working file is marked with a colored folder or label. For electronic records, the prioritization category is displayed on the appeal home screen. Additionally, appeals are identified as **priority 1** or **priority 2** in reports and task assignments (for electronic records).

9.9 Adding or removing claims and combining appeals

(Issued: 02-01-19, Effective: 02-01-19)

An appeal may include one or more claims for Medicare payment, for example, if payment for services provided to multiple beneficiaries or on multiple dates of service were decided in a single reconsideration. Each claim may include multiple line items, that is, specific items or services for which payment is sought. In certain circumstances, claims or line items may be added to an appeal (*see* OCPM 9.9.1) or removed from an appeal (*see* OCPM 9.9.2). Additionally, multiple appeals may be combined into a single appeal in OMHA's case processing system to facilitate the tracking and disposition of related appeals (*see* OCPM 9.9.2).

9.9.1 When can we add claims to an appeal . . .

9.9.1.1 That were decided favorably below?

A claim or specific item or service within a claim that was categorized as favorably decided for the appellant in the initial determination, redetermination, or reconsideration and that was specified in the request for hearing, will not be associated to an appeal, *unless* the ALJ or attorney adjudicator determines that a claim or specific item or service within a claim was not decided entirely in a party's favor.¹⁶

9.9.1.2 That were not listed in the request (new claims)?

A claim that was not included on the request for hearing may only be added to a pending appeal when:

- The claim was adjudicated in the same reconsideration associated with the pending appeal;
- The time frame to request a hearing on the reconsideration has not yet expired, or the adjudicator extends the time to request an ALJ hearing on those claims; and
- For **Part A or Part B** appeals, the appellant has submitted evidence demonstrating that the information that constitutes a complete request for

¹⁶ 42 C.F.R. § 405.1032(a).

hearing and any other materials related to the additional claim(s) was sent to the other parties to the claim.¹⁷

9.9.2 When can we remove claims from an appeal . . .

9.9.2.1 That were decided unfavorably or partially favorably below and not appealed?

A claim (or specific item or service within a claim) that was decided unfavorably or partially favorably for the appellant at the reconsideration level may be removed from an appeal if it was not identified as being appealed in the request for hearing or review. Notice must be given to the parties in writing or at the hearing that the request did not identify the claim(s) and, therefore, that such claim(s) will not be considered.

Example: The QIC denied payment for two dates of service in its reconsideration decision. The appellant identified only the first date of service in its request for hearing. The claim for the second date of service was not appealed, and may be removed from the appeal.

Note: If an appellant concedes that *appealed* claims do not meet coverage or payment criteria, the claims may not be removed from the appeal. Rather, the adjudicator issues an unfavorable decision on the claims or, pursuant to a partial withdrawal of the request for hearing by the appellant, dismisses the request for hearing with respect to the uncontested claims.

9.9.2.2 To create a new appeal?

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

- The appeal resulted from a combination of reconsiderations; and
- The effect of the action is to un-combine the appeals, or to remove one or more of the reconsiderations from the combined appeal.

Note: An appeal of a single reconsideration cannot be split into multiple appeals.

¹⁷ 42 C.F.R. § 405.1014(d).

9.9.3 When can appeals be combined . . .

9.9.3.1 For consolidation?

If the ALJ holds a consolidated hearing, the ALJ may either:

- 1) Issue a separate decision and maintain a separate record for each appeal; or
- 2) Issue a consolidated decision and record.

Additionally, at the request of an appellant or on his or her own motion, an ALJ or attorney adjudicator may issue a consolidated decision and record if multiple appeals involve one or more of the same issues.

If the adjudicator chooses to consolidate the decision and record, the appeals are combined in the case processing system into one OMHA appeal number.¹⁸

9.9.3.2 For administrative efficiency?

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

- The appeals are filed by a single appellant;

<p><i>Note:</i> A common representative in appeals filed by multiple appellants is not considered a “single appellant.”</p>

- 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 MAC processed all of the initial determinations on the claims that will be involved in the appeal);
- The appeals involve the same or related items or services (based on the billed codes); and
- The grouping does not negatively affect the orderly adjudication of appeals (that is, the grouping would not significantly disrupt the adjudicator’s ability to adjudicate other assigned appeals).¹⁹

¹⁸ 42 C.F.R. §§ 405.1044(b), 423.2044(b).

¹⁹ 42 C.F.R. §§ 405.1044(a), 423.2044(a).

Note: 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).

Revision history

Date	Description	Sections/subsections updated
02/01/2019	Initial Release	N/A

If the table above indicates there are prior versions of this chapter, click [here](#) to view them.