

Chapter IV-13 Closing the Case

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Last update: December 4, 2015

IV-13-1 Closing the Case, Generally

NOTE: The CMS contractors described in the regulations as Independent Review Entities (IREs) or Independent Outside Entities (IOEs) are commonly referred to as Part D QICs. This manual adopts this common usage and uses the term “Part D QIC” for ease of identification only.

Citations: §§ 423.1990, 423.2050

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 Removal to Council or EAJR Request

When OMHA does not issue a disposition because the case is removed to Council under § 423.2050 or the review entity has certified that the enrollee meets the requirements for Expedited Access to Judicial Review (EAJR) review under § 423.1990, closing the case involves an abbreviated process. For example, OMHA does not issue a disposition on a case where a request has been made for EAJR.

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 notice of removal to Council or the 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.

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3. Ship the case to the Departmental Appeals Board using the methods described in IV-13-4 B, E and F.
4. Enter required MAS data to close the appeal.

NOTE: Requests for 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 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

IV-13-2 Completing the Administrative Record

Citations: §§ 423.2034, 423.2046, 423.2052

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;
 - Enrollee initials 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 (Part D))

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

b. Notice of Dismissal (OMHA-1072 (Part D))

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 Part D QIC dismissal or a remand of a Part D QIC dismissal to the Part D QIC.

d. Notice of Remand (OMHA-1075)

For use when issuing an Order of Remand (other than a remand of a Part D 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 [IV-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 [IV-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 [IV-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 [IV-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 [IV-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 Part D 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 enrollee (or enrollee's representative), 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 enrollees 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 IV-13-3.

C. Assemble the Record for Mailing

The administrative record must be finalized in accordance with the provisions of IV-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 IV-4-5.

D. 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 IV-13-4.

IV-13-3 Mailing the Notice of Disposition

Citations: [§§ 423.2034](#), [423.2046](#), [423.2052](#)

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.

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:

1. The enrollee, or the appointed representative of the enrollee.

NOTE: If the enrollee has a representative, a separate notice need not be sent to the enrollee. See [I-5](#) for more information about representatives and valid appointments.

2. The Part D Plan Sponsor that issued the coverage determination; and
3. The Part D 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. For example, the contractors, the enrollee, or the enrollee's representative.

B. Dismissals and Recommended Decisions

The notice of dismissal or notice of recommended decision is only sent to the enrollee at his or her last known address, or the enrollee's representative. If the enrollee has a representative, a separate notice need not be sent to the enrollee.

NOTE: The Notice of Dismissal or Notice of Recommended Decision must identify the recipients. For example, the enrollee or the enrollee's representative.

C. Timing of the Mailing

1. Standard Review

Disposition 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.

2. Expedited Review requiring priority delivery

If the ALJ determines that priority delivery of the decision is appropriate, the disposition may be faxed or sent via overnight delivery as set forth below.

a. Fax

If the ALJ determines that priority delivery of the decision is appropriate, the decision may be faxed to the Enrollee or the Enrollee's representative, and the Part D Plan Sponsor, but only where the recipient has expressly consented to receipt by fax and all of the requirements for fax transmission of Personally Identifiable Information (PII) have been observed. Staff must:

- i. Confirm the decision header does not contain any PII other than the beneficiary's first initial, last name, and truncated Health Insurance Claim Number (HICN).
- ii. Confirm the fax machine on the other end is secure, meaning the fax machine is located where only the intended recipient(s) can receive the fax or is in a limited access environment (for example, faxing to a Part D Qualified Independent Contractor fax machine located in an access-restricted area). If not secure, alert the recipient prior to sending to ensure the recipient is waiting at the fax machine.
- iii. Immediately remove the documents with PII from the fax machine after sending.
- iv. Wait for the transmission completion notification.

b. Overnight delivery

As an alternative to fax (for example, if the enrollee does not have access to a suitable fax machine), the decision may be sent via United States Postal Service (USPS) Priority Overnight, or other OMHA-approved overnight delivery service.

IV-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 IV-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 D);
 - The appeal disposition;
 - Whether a hearing CD is enclosed, or in the case of an on-the-record decision (OTR), 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. Unfavorable and Partially Favorable Expedited Part D.

Mail direct to the Council using OMHA-approved 2-day shipping with tracking to the following address:

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

2. Favorable Expedited Part D Case.

Mail to the Part D QIC.

3. Standard Part D, Favorable, Partially Favorable or Unfavorable.

Mail to the Part D QIC.

4. Remands to a Part D QIC.

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

NOTE: If the contract for Part D QIC services has changed such that the case file cannot be shipped to the Part D 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, Part D QIC-A will take over the Part D QIC contract and begin processing reconsideration requests for Part D QIC-B. CMS guidance states that effective November 15, 2011 requests for reconsideration should be sent to Part D QIC-A instead of Part D QIC-B. On January 1, 2012, the ALJ issues a remand in a case where the reconsideration decision was processed by Part D QIC-B. Because CMS has issued guidance that Part D QIC-A is taking over the contract for Part D QIC-B effective November 15, 2011, the case is remanded to Part D QIC-A.

D. Timing of Shipping

1. Standard Review

Standard Review case files are required to be shipped to the Part D QIC or Council, as appropriate, within 48 hours of the date on the disposition document and corresponding Decision Letter Mailed (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 a Part D appeal 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 the example, the file must be shipped by Monday, April 27.

2. Expedited Review

For cases under expedited review, the regulations provide that the ALJ must issue the written decision within the 10 day calendar adjudication deadline and the decision must be mailed to the enrollee and provided to the other proper recipients. [§ 423.2046](#). Generally, the case files are required to be shipped as soon as possible to the Part D QIC

or Council, as appropriate, but not later than 48 hours of the date on the disposition document and corresponding Decision Letter Mailed (DLM) date in MAS.

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 IV-4-3 F, 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.