



DEPARTMENT OF HEALTH AND HUMAN SERVICES
Office of Medicare Hearings and Appeals

**SETTLEMENT CONFERENCE FACILITATION
AGREEMENT OF PARTICIPATION**

Please email this agreement to OMHA_SCFAppeals@cms.hhs.gov. E-mail submission of all materials is mandatory. Handwritten/wet signatures and digital signatures are acceptable. Please attach your signed Agreement of Participation in PDF format.

Settlement Conference Terms

Instructions: Appellants please complete the section below.

I understand and agree to the following:

- An individual authorized to sign a binding agreement on behalf of the provider/supplier(s) must be present at the settlement conference session and the request for Settlement Conference Facilitation will be closed if an authorized individual does not appear at the conference;
- The provider/supplier does not have a pending bankruptcy filing and/or is not expected to file for bankruptcy in the future;
- I understand that the settlement agreement may be void if the provider/supplier has filed for bankruptcy or is expected to file for bankruptcy in the near future;
- Regardless of whether a settlement agreement is reached, I will not seek fees under the Equal Access to Justice Act (EAJA);
- I understand the Centers for Medicare and Medicaid Services (CMS) will not pay fees under EAJA;
- I agree to limit discussion of the appeals in my Settlement Conference Facilitation Spreadsheet to the Settlement Conference Facilitation process. I verify that the appeals on the spreadsheet meet the Settlement Conference eligibility requirements;
- **I agree that I will not separately contact any individual within any division of CMS or its contractors regarding such appeals throughout the duration of the Settlement Conference Facilitation process;**
- I understand that the U.S. Department of Justice must approve any proposed settlement agreements that involve appealed claims with billed charges in excess of \$100,000 or an appeal(s) of an extrapolated overpayment in excess of \$100,000;
- If a settlement agreement is reached, it will be binding and not appealable;
- If a settlement agreement is reached, by signing the agreement, I will be agreeing to withdraw all of the requests for an Administrative Law Judge (ALJ) hearing and/or requests for Medicare Appeals Council review and not pursue further appeals for the items or services covered by the settlement agreement;
- If a settlement is reached, the settlement does not exempt the appeals from review for potential fraud and any civil or criminal actions that commence as a result of such a review; and
- I understand that these terms apply to all of the providers/suppliers listed in the **Provider/Supplier Identification** section of this Agreement of Participation.

Provider/Supplier Signature	Provider/Supplier Printed Name	Date
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Appointed Representative Acknowledgement

Instructions: Required completion if the provider's/supplier's representative will be signing the settlement agreement on behalf of the provider/supplier(s).

*The representative identified below is authorized by the provider/supplier(s) listed in the **Provider/Supplier Identification** section to participate in the Settlement Conference Facilitation process and sign an agreement on behalf of the provider/supplier(s). The representative has advised the provider/supplier(s) that any agreement signed on the provider's/supplier's behalf will be binding on the provider/supplier(s), and will include an agreement that the provider/supplier(s) is withdrawing all of the requests for hearing or review and not pursuing further appeals for the appeals covered by the settlement agreement. The representative fulfilled his/her duty to advise the provider/supplier(s) of the consequences of withdrawing a request for an ALJ hearing and/or request for Medicare Appeals Council review and the subsequent dismissal that will result from that action. Further, the representative agrees to limit discussion of the appeals under review to the Settlement Conference Facilitation process. The representative will not separately contact any individual within any division of CMS or its contractors regarding such appeals throughout the duration of the Settlement Conference Facilitation process.*

Provider/Supplier Signature	Provider/Supplier Printed Name	Date
Representative Signature	Representative Printed Name	Date

Settlement Conference Facilitation Confidentiality Agreement

Instructions: This section must be completed by every individual who will be in attendance at the settlement conference, regardless of actual participation in the settlement conference. Failure of every individual in attendance to complete this agreement will result in rejection of a provider's/supplier's Request for Settlement Conference Facilitation.

If additional signature lines are needed, please download and complete the Addendum to Settlement Conference Facilitation Confidentiality Agreement.

As parties to this settlement conference, we voluntarily agree to mediation in the conference. We understand that mediation may be terminated at any time by either the parties or by the facilitators.

The facilitators have no authority to decide any case and are not acting as advocates or attorneys for any party. The parties have a right to representation during the settlement conference.

The confidentiality provisions of the Administrative Dispute Resolution Act (ADRA) apply to this settlement conference. The ADRA focuses primarily on protecting private communications between parties and the facilitator. Under ADRA, a party's oral communications to the facilitator during settlement conference mediation are protected. Written communications which a party prepares for mediation and gives only to the facilitator are also protected. Notwithstanding the above, there are exceptions to the confidentiality provisions in ADRA in the OMHA Settlement Conference Facilitation Process.

In unusual circumstances, a court can order disclosure of information that would manifest injustice, help establish a violation of law, or prevent harm to public health and safety. Further, information concerning fraud and criminal activity or threats of imminent harm will not be considered confidential in this settlement conference.

Additionally, by signing this agreement, CMS and the provider/supplier agree not to publicly disclose any information or statement provided by the other party during the course of the pre-settlement conference or settlement conference unless the disclosure is in response to a lawful request (e.g., discovery, subpoena, or FOIA).

No party shall be bound by anything said or done at the settlement conference, other than agreement to these terms and conditions, unless a written settlement is reached and executed by all necessary parties. By signature below, we acknowledge that we have read, understand, and agree to the terms and conditions stated herein.

Provider/Supplier or Representative Signature	Provider/Supplier or Representative Printed Name	Date
Provider/Supplier or Representative Signature	Provider/Supplier or Representative Printed Name	Date
CMS Authorized Staff Signature	CMS Authorized Staff Printed Name	Date
CMS Authorized Staff Signature	CMS Authorized Staff Printed Name	Date

OMHA Facilitator signatures will attach as an addendum(s) when all parties fully execute this agreement.

