Latest Policy and Regulatory Changes
to the Medicare Appeals Process

Update from OMHA

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OMHA by the Numbers

QIC Formal Telephone Discussion Demonstration

- DME QIC conducts voluntary telephone discussions with suppliers in MAC Jurisdictions C & D
- Suppliers given opportunity to present facts of case & provide additional documentation to support resolution of appeal at QIC
- QIC also reviews closed reconsiderations pending with OMHA; identifies cases that can be resolved favorably via QIC reopening in light of discussion
**Departmental Initiatives**

- **QIC Formal Telephone Discussion Demonstration**
  - If a fully favorable determination is warranted, QIC requests remand from OMHA and notifies DME MAC to pay claim
  - 5,683 appeals* have been resolved favorably via demonstration process prior to reaching OMHA
  - 16,208 appeals* have been remanded from OMHA for QIC to process reopening/resolve claim favorably
  - Recently expanded to include all claims for DME submitted by Jurisdictions C and D suppliers

*Data current as of February 2, 2017 (confirmed with CMS)

**OMHA Initiatives**

- **Settlement Conference Facilitation (SCF)**
  - Appeals resolved since June 2014: 10,838

- **Adjudication through Statistical Sampling**
  - Appeals for which the appellant selected statistical sampling since June 2014: 6,287
  - New process implemented in the coming month
    - No date restrictions
    - Sample units will be assigned among multiple adjudicators

- **Senior Attorney On the Record (OTR)**
  - Appeals resolved since July 1, 2015: 3,338

**OMHA Initiatives**

- **Electronic Case Adjudication Processing Environment (ECAPE)**
  - Release 1 (Spring 2017)
    - Case Intake/Appellant Public Portal (Phase I)
  - Release 2
    - Phase 1 (Spring/Summer 2017) - Appellant-Initiated Requests for Withdrawals/Remands Associated with Backlog Initiatives
    - Phase 2 (Winter/Spring 2018) - Appeals Adjudication
  - Release 3 (Summer 2018)
    - Enhanced Appellant Public Portal (Phase II)
Medicare Appeals Final Rule

- Medicare Program: Changes to the Medicare Claims and Entitlement, Medicare Advantage Organization Determination, and Medicare Prescription Drug Coverage Determination Appeals Procedures (82 FR 4974 (Jan. 17, 2017))
- 68 comments to July 5, 2016, proposed rule (81 FR 43790)
- Published effective date: March 20, 2017

Medicare Appeals Final Rule

- Precedential Decisions (§401.109)
- Attorney Adjudicators—authorities
  - Decide appeals for which a decision can be issued without a hearing
  - Review dismissals issued by a CMS contractor
  - Issue remands to CMS contractors
  - Dismiss requests for hearing when an appellant withdraws the request
- CMS and CMS Contractor Participation(§§405.1010, 405.1012, 423.2010)

Medicare Appeals Final Rule

- Review of New Evidence (§405.1028(a)(2))
  - With §405.1018, implements §1869(b)(3) of Social Security Act
  - Four new examples of when good cause may be found for submission of new evidence:
    - Material to a new issue identified after QIC decision
    - Unable to be obtained prior to QIC’s decision, and evidence that reasonable attempts were made
    - Previously submitted but missing evidence.
    - Any other circumstance where party could not have obtained evidence before the QIC issued its reconsideration
  - Clarified that limitation does not apply to CMS or its contractors, Medicaid State Agencies, or Plans
Medicare Appeals Final Rule

Increased Efficiencies
- Revised request for information (§405.1034) and remand (§405.1056) procedures and authority of Chief ALJ or designee to review remands
- Adjudication time frame for cases remanded from Medicare Appeals Council (§405.1016(b)(2))
- Authority of ALJ or attorney adjudicator to vacate his or her own dismissals (§405.1052(e))
- Stipulated decisions (§405.1038(c))

Medicare Appeals Final Rule

Reduced Confusion
- Replaces references to “MAC” and “DAB” with “Council”
- Clarifies application of part 405 regs to other parts
- Clarifies §405.1014 requirement to send copies of request for hearing to other parties

Medicare Appeals Final Rule

Proposals That Were Not Finalized
- (Section IV of Final Rule 82 FR 5102)
- Changes to calculation methodology for amount in controversy
- Required disclosure on request for hearing of pending OIG or law enforcement investigations or proceedings