



Weekly Auditing and Compliance Tip



National Alliance of Medical Auditing Specialists | 877-418-5564 | namas.co | namas@namas.co

August 25, 2017

Changes to the Medicare Appeals Process

On June 29th, The Centers for Medicare and Medicaid (CMS) issued the Medicare Program: "Changes to the Medicare Claims and Entitlement, Medicare Advantage and Organization Determination, and Medicare Prescription Drug Coverage Determination Appeals Procedures final rule." The purpose of this guidance is to streamline the administrative appeal processes, increase consistency in decision making across appeal levels and improve the efficiency for both appellants and adjudicators, and in particular benefits Medicare beneficiaries by clarifying processes and adding provisions for increased assistance when they are not represented.

Because there has been such a significant increase in the number of appeals filed to the ALJ (at the end of 2016 there were more than 650,000 pending appeals at OHMA) and the lack of funding by the congress, there is significant backlog at the ALJ and DAB (MAC) levels. Personally, I blame the significant and sustained increase in appeals on Medicare's use of contractors (ZPIC (now UPIC), MIC, MAC, RAC, etc.) who, more often than not, are issuing findings against medical providers that are bizarre and fail to adequately explain why a service is being denied in part or in whole, which leads to the filing of appeals.



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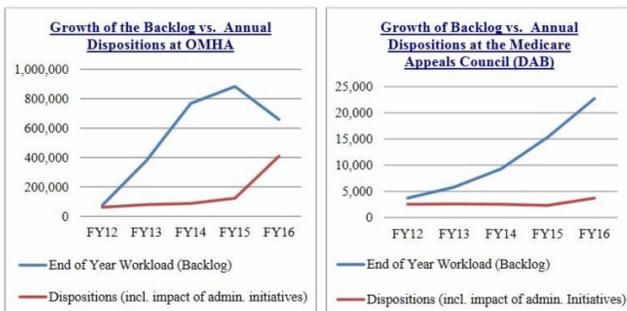
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If these contractors would assign individuals with the requisite skills in the specialties they are auditing, I fully believe the number of appeals for denials would be cut by a significant percentage. If you are interested in seeing where things currently stand with the backlog, The Medicare Appeals Process is available on OMHA's website at <https://www.hhs.gov/sites/default/files/omha/files/medicare-appeals-backlog.pdf>. ([Click Here to Access this Document](#)). Here is a small excerpt from this document explaining the issues:

"In fiscal year (FY) 2016, more than 1.2 billion Medicare fee-for-service claims were processed. On initial determination, over 119 million claims (or 9.7 percent) were denied. Of the denied claims, 3.5 million (2.9 percent of all Medicare denied claims) were appealed. In recent years, OMHA and the Council have received more appeals than they can process within the contemplated time frames. From FY 2010 through FY 2015, OMHA experienced an overall 442 percent increase in the number of appeals received annually. In the same time frame, the Council experienced an overall 267 percent increase in the number of appeals it received annually. However, while the volume of appeals has increased dramatically, funding has remained comparatively stagnant. As a result, as of the end of FY 2016, 658,307 appeals were waiting to be adjudicated by OMHA and 22,707 appeals were waiting to be reviewed at the Council. Under current resource levels (and without any additional appeals), it would take eight years for OMHA and ten years for the Council to process their respective backlogs.



Changes to the Medicare Appeals Process:

"The changes in the final rule are primarily focused on the third level of appeal and will:

- Permit designation of Medicare Appeals Council decisions (final decisions of the Secretary) as precedential to provide more consistency in decisions at all levels of



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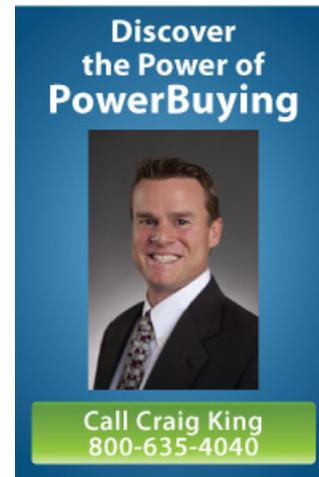
- September 12 & 13: Savannah, GA
- October 10 & 11: Phoenix, AZ
- November 7 & 8: Cincinnati, OH
- November 14 & 15: Salt Lake City, UT
- And more!

appeal, reducing the resources required to render decisions, and possibly reducing appeal rates by providing clarity to appellants and adjudicators.

- Expand OMHA's available adjudicator pool by allowing attorney adjudicators to decide appeals for which a decision can be issued without a hearing, review dismissals issued by a Qualified Independent Contractor (QIC) or Independent Review Entity (IRE), issue remands to Centers for Medicare & Medicaid Services (CMS) contractors, and dismiss requests for hearing when an appellant withdraws the request. This change will allow ALJs to focus their efforts on conducting hearings and adjudicating the merits of more complex cases.
- Simplify proceedings when CMS or CMS contractors are involved by limiting the number of entities (CMS or contractors) that can be a participant or party at the hearing (although additional entities may submit position papers and/or written testimony or serve as witnesses).
- Clarify areas of the regulations that currently causes confusion and may result in unnecessary appeals to the Medicare Appeals Council.
- Create process efficiencies by eliminating unnecessary steps (e.g., by allowing ALJs to vacate their own dismissals rather than requiring appellants to appeal a dismissal to the Medicare Appeals Council); streamlining certain procedures (e.g., by using telephone hearings for appellants who are not unrepresented beneficiaries, unless the ALJ finds good cause for an appearance by other means); and requiring appellants to provide more information on what they are appealing and who will be attending a hearing.
- Address areas for improvement previously identified by stakeholders to increase the quality of the process and responsiveness to customers, such as establishing an adjudication time frame for cases remanded from the Medicare Appeals Council, revising remand rules to help ensure cases keep moving forward in the process, simplifying the escalation process, and providing more specific rules on what constitutes good cause for new evidence to be admitted at the OMHA level of appeal."

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NAMAS 9th Annual Auditing & Compliance Conference Speaker Spotlight



Speaker Spotlight

During the NAMAS 9th Annual

While these changes are significant and aim to reduce the number of appeals and the timeframe in which appeals can/will be heard; it is important to keep in mind this is only a first step by CMS and the process as with all things tied to the government will most likely need to be overhauled or at least tweaked to allow appellants and adjudicators the ability to understand the process and to ensure due process for appellants.

This Week's Audit Tip Written By:

Sean M. Weiss, CHC, CMCO, CEMC, CPMA, CMPE, CPC-P, CPC
Sean is a Partner and the Vice President of Compliance for DoctorsManagement, LLC.



Sean specializes in audit appeal representation and appeal defense strategies for clients. Sean performs more than 100 appeals annually for clients across the country in addition to providing expert regulatory guidance to more than 26 law firms. Sean holds multiple certifications in auditing, compliance and practice management to go along with his 22 years of industry experience. Sean leads a team of certified compliance auditors and consultants focused on ensuring clients are afforded due process and favorable outcomes. For more information on Sean and audit representation and compliance services, please visit www.doctors-management.com or call 800-635-4040.

**Join NAMAS for the 9th Annual Auditing & Compliance Conference
December 2017 in Orlando, FL!**



SCOTT KRAFT, CPMA, CPC,
Auditing Specialist,
DoctorsManagement

Auditing & Compliance, Scott Kraft will be presenting the following sessions:

- Creating an Effective Audit Report
- Incident- to Smackdown
- 2,3,4,5 You Ain't Got No Alibi if You're Not Choosing the Right LOS

Each week, we will spotlight a conference speaker and the session(s) he/she will be presenting. Join us for this year's conference December 6-8, 2017 in Orlando, FL at the Loews Sapphire Falls Resort!
Click the image above to learn more about conference



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We invite you to take a brief survey to provide your feedback regarding locations for our annual conference

**Please click the image above to participate
Your feedback is greatly appreciated!**

NAMAS Calendar of Events





Conference Information

Pre-Conference: Tuesday, December 5
Conference: Wednesday, December 6 - Friday, December 8
Venue: Loews Sapphire Falls Resort
Orlando, FL

[Click Here to View the Conference Agenda](#)

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How to Be Decisive About Medical Decision Making (Auditing Webinar Series)

Speaker: Grant Huang
September 5, 2017
2pm EST

How to Audit Modifiers (How to Webinar Series)

Speaker: Aimee Wilcox
September 12, 2017
2pm EST

Ransomware Detection, Prevention & Correction (Compliance Webinar Series)

Speaker: Rachel Roase
September 19, 2017
2pm EST

Hands On: Auditing Modifiers (Hands On Webinar Series)

Speaker: Pam Vanderbilt
September 26, 2017
2pm EST

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Tip of the Week**

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