

Legal Matters

Five Steps and Six Key Things to Know on CMS's Guidance Addressing the Low Volume Medicare Appeal Settlement



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Recently HHS announced two initiatives to address the mounting Medicare appeals backlog at the Administrative Law Judge level: (i) expand the Settlement Conference

must submit EOIs between 3/12/2018 and 4/11/2018.

- CMS determines if the appellant is eligible for the LVA settlement option;
 - Eligible appellants include Fee-For-Service Medicare Part A and Part B providers, physicians, and Durable Medical Equipment suppliers with fewer than 500 appeals associated with their NPIs pending before the Office of Medicare Hearings and Appeals (OMHA) and the Medicare Appeals



Facilitation (SCF) program and (ii) offer a new Low Volume Appeals (LVA) settlement option.

HHS has not yet provided details on the expansion of the SCF program, but CMS has issued guidance on the LVA settlement process, which will start on February 5, 2018 and boils down to the following five steps:

- Appellant submits an Expression of Interest (EOI) in a prescribed timeframe, which depends on the appellant's national provider identification number (NPI) ending in an even or odd number.
 - NPIs ending in an even number must submit EOIs between 2/5/2018 and 3/9/2018.
 - NPIs ending in an odd number

Council (Council) at the Departmental Appeals Board, collectively.

- Once an appellant is deemed eligible, then each appeal is determined for eligibility.
 - All of the applicant's eligible appeals must be settled; the appellant may not choose to settle some eligible appeals but not others. An "eligible appeal" must meet the following elements:
 - The appeal was properly

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- and timely filed at the OMHA or Council level as of November 3, 2017.
- The appeal has a total billed amount of \$9,000 or less.
 - The claims included in the appeal were submitted for payment under Medicare Part A or Part B.
 - The claims included in the appeal were not part of an extrapolation.
 - As of the date the Agreement is fully executed, the appeal was still pending at the OMHA or Council level of review – if a decision is rendered on an appeal prior to execution of the Agreement, then the appeal is not eligible for settlement.
 - The claims included in the appeal were denied by a Medicare contractor and remain in a fully denied status in the Medicare system.
 - If eligible, CMS sends notification within 30 days of receiving the EOI, along with a spreadsheet of all potentially eligible claims and an Agreement for appellant to sign.
 - Appellant validates the Spreadsheet and signs the Agreement within 15 days of receipt, or sends an Eligibility Determination Request (EDR) to dispute any appeals that are listed or missing within the same timeframe.
 - Once the Agreement is countersigned by CMS, MACs price the claims and send a lump payment to appellant within 180 days. The settled appeals are dismissed.

Based on the CMS guidance and the LVA settlement process, providers should keep in mind the following six important details:

 - Check your NPI number now to know when your EOI must be submitted.
 - Submitting an EOI does not bind you to a settlement—a provider may still decline Agreement.
 - Settled claims will be excluded from future review by a MAC or RAC, but not CERT reviews or investigations related to potentially fraudulent claims. For dual eligible beneficiaries, the appellant must notify the state Medicaid agency when they receive payment from another payer.
 - The settlement amount is 62 percent of the net claim approved amount, not necessarily the amount billed, and the net amount is not available before the Agreement is signed.
 - Claims included in this settlement will continue to show as “denied” in the applicable CMS database—this may be a key issue for providers seeking secondary payments.
 - Any interest paid by the appellant after the claim was denied will be refunded, but no interest will be paid for the claim under appeal.◆

Healthy Heart

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Did you know?

- The first American Heart Month, which took place in February 1964, was proclaimed by President Lyndon B. Johnson via Proclamation 3566 on December 30, 1963.
 - The Congress, by joint resolution on that date, has requested the President to issue annually a proclamation designating February as American Heart Month.
 - At that time, more than half the deaths in the U.S. were caused by cardiovascular disease.
 - While American Heart Month is a federally designated month in the United States, it's important to realize that cardiovascular disease knows no borders. Cardiovascular disease, including heart disease and stroke, remains the leading global cause of death with more than 17.3 million deaths each year.
 - That number is expected to rise to more than 23.6 million by 2030.
 - President Lyndon B. Johnson's proclamation that first declared February as American Heart Month
 - The American Heart Association is the nation's oldest and largest voluntary organization dedicated to fighting heart disease and stroke. Founded by six cardiologists in 1924, our organization now includes more than 22.5 million volunteers and supporters.
- This February 2nd, help the American Heart Association and Go Red For Women celebrate American Heart Month and raise heart disease awareness by participating in National Wear Red Day. #WearRedAndGive
- To learn more, go to: <https://www.goredforwomen.org/wearredday/outcomes>.◆



American Heart Association®

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