

# PUBLICATION

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## HHS Expands Eligibility for Medicare Appeal Settlement Conference Facilitation Process

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**On August 11, 2020, the Department of Health and Human Services announced that it is expanding the alternative dispute resolution process known as Settlement Conference Facilitation (SCF) for 2020. Under the expansion, Administrative Law Judge (ALJ) hearing requests and requests for Medicare Appeals Council (Council) review filed on or before March 31, 2020, may now be eligible to participate in SCF.**

The SCF process allows appellants with eligible Medicare claims appeals pending before the Office of Medicare Hearings and Appeals (OMHA) or the Council to engage with CMS in an effort to reach a mediated settlement instead of awaiting the outcome of the administrative appeals process. All pending appeals associated with a single National Provider Identifier (NPI) and Provider Transactions Access Number (PTAN) that are eligible for SCF must be included if an appellant elects to participate. Appellants whose appeals have a total billed amount less than \$10,000 are not eligible for a settlement conference, but may participate in the related SCF "Express" process where CMS provides an offer that the appellant may either accept or reject.

If a settlement agreement is reached, payment is made at a percentage of the Medicare approved amount for the included claims. Either party can choose to leave the process at any time and if a settlement agreement is not reached, the appeals involved return to OMHA or the Council, as applicable.

All other appellant and appeal eligibility criteria for SCF remain in place, including:

- The request(s) for ALJ hearing and/or Council review must arise from a Medicare Part A or Part B Qualified Independent Contractor (QIC) reconsideration decision;
- All jurisdictional requirements for OMHA or Council review must be met for the eligible appeals;
- Appeals must not be scheduled for an ALJ hearing or an ALJ hearing must not have been conducted;
- Appeals must not be actively engaged in another OMHA or CMS Medicare appeals initiative, including the QIC Demonstration Project and the CMS Serial Claims Initiative;
- The beneficiary must not have been found liable for the amount in controversy after the initial determination, or participated in the reconsideration;
- Appeals must not involve items, services, drugs, or biologicals billed under unlisted, unspecified, unclassified, or miscellaneous healthcare codes (e.g., CPT Code 38999 Unlisted procedure, hemic or lymphatic system; K0108 Wheelchair component or accessory, not otherwise specified);
- Appeals must not involve payment disputes (e.g., the appellant was paid as billed, in full, by the contractor, but the appellant believes the fee schedule or contractor price amount is insufficient payment);
- Appeals must not arise from a QIC or ALJ dismissal order; and
- Appeals must not be beneficiary-initiated appeals of QIC reconsiderations or any appeals arising from Medicare Part C, Medicare Part D, or appeals of Social Security Administration decisions regarding entitlement, Part B late enrollment penalties, and Part B and Part D income related monthly adjustment amounts (IRMAAs).

Full appellant and claim eligibility criteria, as well as applicable forms and instructions, for SCF can be found on the [HHS website](#). Appellants wishing to pursue SCF can initiate the process by completing and submitting a [Request for SCF](#) form, available on the HHS website.

For further information, please contact [Katie Salsbury](#) or any member of Baker Donelson's [Reimbursement Team](#).