



Administrative Conference Recommendation 2018-5

Public Availability of Adjudication Rules

APPENDIX

Paragraph 2

Paragraph 2 reads in part, “[i]n providing access to the materials pursuant to Paragraph 1, agencies should present the materials in a clear, logical, and comprehensive fashion. One way to do so is to display the materials published under Paragraph 1 in an easy-to-read table.” The “Legal Authorities” page of the Office of Medicare Hearings and Appeals’ website (an office within the Department of Health and Human Services) demonstrates such a table.¹

The Appeals Process -

- Level 1 Appeals
- Level 2 Appeals
- Level 3 Appeals (OMHA)
- Level 4 Appeals
- Level 5 Appeals
- Legal Authorities**
- Case Processing Manual

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Legal Authorities

The current Medicare appeals process was established by various statutes and implementing regulations. The table below lists some of the statutes and regulations that govern the appeals process for Medicare claims and entitlement, Medicare Advantage organization determination, and Medicare prescription drug coverage determination appeals, as well as select OMHA and Centers for Medicare & Medicaid (CMS) program guidance.

Medicare Part	Statute*	Implementing Regulations	Select Program Guidance
Medicare Part A and Part B fee-for-service claim, entitlement, and certain premium initial determinations	Social Security Act § 1889 (42 U.S.C. 1395f) QIO Appeals Only Social Security Act § 1155 (42 U.S.C. 1320c-4)	42 C.F.R. part 405, subpart I (\$\$ 405.1000–405.1063 for ALJ appeals) QIO Appeals Only 42 C.F.R. part 478, subpart B (\$ 478.40 for ALJ appeals) IRMAA Appeals Only 20 C.F.R. §§ 418.1301–418.1355 (\$ 418.1350 for ALJ appeals)	OMHA Case Processing Manual (Division II for Part A/B appeals, Division V for entitlement and certain premium appeals) Medicare Claims Processing Manual, CMS Publ'n 100-04, Ch. 29 - PDF (\$\$ 330–330.6 for ALJ appeals)
Medicare Part C Medicare Advantage and competitive health plan organization determinations	Social Security Act § 1852(a) (42 U.S.C. 1395w-22(g)) Social Security Act § 1876(c)(5)(B) (42 U.S.C. 1395mm(c)(5)(B))	42 C.F.R. part 422, subpart M (\$\$ 422.600–405.612 for ALJ appeals) 42 C.F.R. part 417, subpart Q	OMHA Case Processing Manual (Division III for Part C appeals) Medicare Managed Care Manual, CMS Publ'n 100-16, Ch. 13 - PDF (\$\$ 100–100.2 for ALJ appeals)
Medicare Part D plan sponsor coverage determinations and certain premium determinations	Social Security Act § 1860D-4 (42 U.S.C. 1395w-104)	42 C.F.R. part 423, subparts M and U (\$\$ 423.1968–423.2063 for ALJ appeals) IRMAA Appeals Only 20 C.F.R. §§ 418.2301–418.2355 (\$ 418.2350 for ALJ appeals)	OMHA Case Processing Manual (Division IV for Part D appeals) Prescription Drug Benefit Manual, CMS Publ'n 100-18, Ch. 18 (\$\$ 90–90.4 for ALJ appeals)

*Statutory citations are given to the Social Security Act, as amended, with United States Code (U.S.C.) equivalents as parentheticals. However, please note that the online version of the U.S.C. may be more current.

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¹ DEP'T. OF HEALTH & HUM. SERVS., LEGAL AUTHORITIES, <https://www.hhs.gov/about/agencies/omha/the-appeals-process/legal-authorities/index.html?language=es> (last visited Oct. 22, 2018).



Paragraph 4

Paragraph 4 reads in part, “[w]hen an agency’s mission consists exclusively or almost exclusively of conducting adjudications, the agency should link to its materials published under Paragraph 1 on the agency’s homepage.” The Occupational Safety and Health Review Commission’s (OSHRC) website demonstrates how an agency can link to the procedural materials published from an agency’s home page.²

Paragraph 4 also reads in part, “[w]hen conducting adjudications is merely one of an agency’s many functions, the agency should link to its rules and guidance from a location on the website that is both dedicated to adjudicatory materials and logical in terms of a person’s likelihood of finding the documents in the selected location, such as an enforcement or

² OCCUPATIONAL SAFETY & HEALTH REV. COMM’N, HOME, <https://www.oshrc.gov> (last visited Oct. 22, 2018).



adjudications page.” The Federal Trade Commission’s (FTC) website demonstrates how an agency can link to the published materials from an enforcement page.³

Home » Enforcement

Enforcement

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- PREMERGER NOTIFICATION PROGRAM
- MERGER REVIEW
- ANTICOMPETITIVE PRACTICES
- RULES
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- CONSUMER SENTINEL NETWORK
- CRIMINAL LIAISON UNIT

Enforcement

The FTC enforces federal consumer protection laws that prevent fraud, deception and unfair business practices. The Commission also enforces federal antitrust laws that prohibit anticompetitive mergers and other business practices that could lead to higher prices, fewer choices, or less innovation.

Whether combatting telemarketing fraud, Internet scams or price-fixing schemes, the FTC’s mission is to protect consumers and promote competition.

The FTC administers a wide variety of laws and regulations, including the Federal Trade Commission Act, Telemarketing Sale Rule, Identity Theft Act, Fair Credit Reporting Act, and Clayton Act. In total, the Commission has enforcement or administrative responsibilities under more than 70 laws.

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³ FED. TRADE COMM’N, ENFORCEMENT, <https://www.ftc.gov/enforcement> (last visited Oct. 22, 2018).