

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE

Records in the system are maintained in file folders and binders, and on password-protected computers or computer servers.

RETRIEVABILITY

Records in the system are retrieved by the name of the non-government party or by docket or decision number.

SAFEGUARDS

Access to and use of records in the system are limited to those persons (including DAB contractors) whose official duties require such access. Paper records are maintained in file cabinets, offices, and other secure areas to which only authorized persons have access; information or records stored on computers may be retrieved through the use of passwords known only to authorized personnel. Physical access to the DAB's offices and computers is controlled by security personnel and by a computerized card entry system, and is limited to DAB employees and to non-DAB persons whose access is authorized and whose activities are supervised or monitored by the System Managers or other DAB employees. DAB employees who maintain records in the system are instructed to grant access to these records only to persons whose official duties require such access. In addition, DAB employees are required and instructed to adhere to the provisions of the Privacy Act, the HHS Privacy Act Regulations, and security guidelines set forth in Chapter 45-13 of the HHS General Administration Manual. Contractors who assist the DAB in maintaining the records are instructed to make no disclosure of the records except as authorized by the System Managers and permitted by the Privacy Act. Privacy Act language is included in contracts related to this system.

RETENTION AND DISPOSAL

Once a matter is closed, the DAB's paper records for that matter are stored in DAB files for a period of time not exceeding seven years. After that time, the files are turned over to the Office of the Secretary, HHS Records Management Officer. The records are then transferred to the Washington National Records Center, Washington, DC 20409, where they are kept for an additional 20 years, after which time they may be destroyed.

Electronic files that are part of the DAB's system of records (including case tracking information) are maintained on

a secure server that can be accessed only by authorized personnel.

SYSTEM MANAGERS AND ADDRESSES

Appellate Division: Chief, Appellate Division, Departmental Appeals Board, MS 6127, Room G-644, Cohen Building, 330 Independence Avenue, SW., Washington, DC 20201.

Civil Remedies Division: Chief, Civil Remedies Division, Departmental Appeals Board, MS 6132, Room G-644, Cohen Building, 330 Independence Avenue, SW., Washington, DC 20201.

Alternative Dispute Resolution Division: Chief, Alternative Dispute Resolution Division, Departmental Appeals Board, MS 6132, Room G-644, Cohen Building, 330 Independence Avenue, SW., Washington, DC 20201.

NOTIFICATION PROCEDURE

Individuals who wish to inquire about whether the DAB's system of records contains information about them should contact the appropriate System Manager indicated above. When making such an inquiry, it is necessary to provide the following information regarding the individual:

- (1) Full name;
- (2) Date of birth;
- (3) Kind of action taken by the agency;
- (4) Date and location of the filing of

the case, appeal or other matter before the DAB; and

- (5) If appropriate, the DAB docket or decision number.

RECORD ACCESS PROCEDURE

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE

Contact the appropriate System Manager at the address specified under notification procedures, reasonably identify the record, and specify the information to be contested and corrective action sought with the supporting justification.

RECORD SOURCE CATEGORIES

Information in this system is obtained from:

- (1) The individuals to whom the record pertains;
- (2) Agency officials and documents;
- (3) The testimony, affidavits and statements of witnesses;
- (4) The documents, received testimony, exhibits and submissions of the parties involved in the matter.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT

None.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary, Departmental Appeals Board; Privacy Act of 1974; New System of Records

AGENCY: Departmental Appeals Board (DAB), Office of the Secretary, Department of Health and Human Services (HHS).

ACTION: Notification of a new system of records.

SUMMARY: In accordance with the requirements of the Privacy Act, the HHS DAB is publishing a notice of a system of records entitled, "Medicare Appeals Council Records, HHS/OS/DAB No. 09-90-0048." We have provided background information about the proposed system in the **SUPPLEMENTARY INFORMATION** section below.

DATES: The DAB sent a report of the system notice to Congress and the Office of Management and Budget (OMB) on *January 27, 2006*. The routine uses will be effective 40 days after the submittal of the report of new system to OMB or 30 days after publication of the notice, whichever is later, unless the DAB receives comments on the routine uses during that period.

Submit comments on or before April 5, 2006. Comments may be viewed on or before April 5, 2006.

ADDRESSES: Written comments on routine uses should be addressed to: U.S. Department of Health and Human Services, Office of the Secretary, Departmental Appeals Board, MS 6127, Medicare Appeals Council, Attention: Jill W. Anderson, 330 Independence Avenue, SW., Cohen Building, Room G-644, Washington, DC 20201.

Comments received will be available for public inspection, by appointment, from 9 a.m. to 5 p.m. at the DAB's offices, which are located at 800 North Capitol Street, NW., 6th Floor, Washington, DC. To schedule an appointment, please call (202) 565-0200.

FOR FURTHER INFORMATION CONTACT: Jill W. Anderson, Departmental Appeals Board, 202-565-0166 and/or jill.anderson@hhs.gov.

SUPPLEMENTARY INFORMATION: On August 15, 1994, the Social Security Independence and Program Improvement Act of 1994, Public Law 103-296, was enacted, establishing the Social Security Administration (SSA) as an independent agency. As a result, the Secretary of HHS delegated to the Chair of the DAB the authority to review decisions issued by Administrative Law Judges (ALJs) concerning entitlement

claims and claims for coverage and payment under Titles XVIII and XI of the Social Security Act (60 FR 64065). The delegation was effective October 1, 1995. (Prior to that date, the SSA Appeals Council reviewed ALJ decisions concerning Medicare claims. See 47 FR 45592 and 47 FR 45589 for the Privacy Act Notices pertaining to cases within SSA's prior jurisdiction.) The Chair has redelegated to the Administrative Appeals Judges and Appeals Officers of the Medicare Appeals Council (MAC) of the DAB her authority to review ALJ decisions. The Chair has also retained this authority for herself and has authorized other Members of the DAB to sit as MAC Administrative Appeals Judges. The MAC is supported by DAB's Medicare Operations Division (MOD).

Because the Privacy Act Notice published by the DAB in the **Federal Register** on May 19, 1993 (58 FR 29228) was issued before the above-referenced delegation of authority, it does not describe the system of records for the MAC cases. The DAB proposes to establish a new system of records: "Medicare Appeals Council Records, HHS/OS/DAB No. 09-90-0048." This system of records will be used by the MAC and the MOD staff to docket, track, manage and decide appeals and other matters involving individuals and entities who are parties before the MAC.

This system contains information on all individuals and entities who are parties before the MAC of the DAB, including their names and, with respect to beneficiaries, their health insurance claim numbers (which are generally the same as their social security numbers). The amount of information recorded on each individual or entity will only be that which is necessary to resolve the matter before the MAC. This system contains some records that are about entities, rather than individuals, and those records are not covered by the Privacy Act.

The records in this system will be maintained in a secure manner compatible with their content and use. The MAC and MOD staff will be required to adhere to the provisions of the Privacy Act and the HHS Privacy Act Regulations. The System Manager will control the access to the data. Only authorized users whose official duties require such information will have regular access to the records in this system. Authorized users are the MAC, MOD staff, and designated DAB computer staff. Physical access to the MAC/MOD component is by authorized card key holders only.

Records will be stored in file folders in a secure records room or in file

cabinets. Data stored on computers will be accessed only by authorized users. Paper and computerized records will be maintained in accordance with the standards of Chapter 45-13 of the HHS General Administration Manual: "Safeguarding Records Contained in the System of Records."

The Privacy Act permits us to disclose information without consent of the individual for "routine uses", that is, disclosure for purposes that are compatible with the purpose for which we collect the information. Information may also be disclosed if required by the Freedom of Information Act. The information is collected for administering a hearings and appeals process in accordance with Title XVIII and Part B of Title XI of the Social Security Act. We anticipate that disclosure under the routine uses will not result in any unwarranted adverse effects on personal privacy.

(Authority: 5 U.S.C. 552a(e)(4))

Dated: January 13, 2006.

Cecilia Sparks Ford,

Chair, Departmental Appeals Board.

HHS/OS/DAB No. 09-90-0048

SYSTEM NAME:

Medicare Appeals Council Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

6th Floor, 800 North Capitol Street, NW., Washington, DC 20002.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals who appeal an action of an Administrative Law Judge (ALJ) concerning a claim for payment under Title XVIII or XI of the Social Security Act or concerning entitlement to Medicare benefits. Also individuals whose cases are referred to the Medicare Appeals Council (MAC) by the Centers for Medicare & Medicaid Services (CMS) pursuant to the MAC's discretionary review authority.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains information concerning Medicare beneficiaries; physicians, providers, suppliers, and other persons or entities involved in furnishing healthcare items or services to Medicare beneficiaries; and third-party appellants such as State Medicaid agencies. Information on beneficiaries may include: name, address, health insurance claim number, medical records, items or services for which Medicare reimbursement is requested, and material used to determine the

amount of benefits allowable under Medicare. Information on physicians, providers, suppliers and other persons may include: name, address, specialty, identification number, items or services for which Medicare reimbursement is requested, and material used to determine the amount of benefits allowable under Medicare. This system contains some information that is about entities, rather than individuals, and that information is not covered by the Privacy Act.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 1852(g), 1869, 1876(c)(5), and 1155 of the Social Security Act, as amended.

PURPOSE(S):

The records contain information used in processing an appellant's request for review of an ALJ decision or dismissal (or for other MAC action) or information used in considering a CMS referral; information used in tracking and ascertaining the status of the request or referral; information used to reply to correspondence; and information the MAC used to reach a decision on the request or referral.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosures may be made to:

1. Student volunteers, individuals working under a personal services contract, and other individuals performing functions for HHS but technically not having the status of agency employees, if they need access to the records to perform their assigned agency functions.
2. A congressional office from the record of an individual or entity whose case is pending, in response to an inquiry from the congressional office at the request of that individual or entity.
3. Components of the Social Security Administration and authorized hearing offices that provide information/inquiry services to individuals or entities pursuing appeals or provide hearings on request of individuals or entities.
4. The Department of Justice, a court or other tribunal, or another party before such tribunal, when—
 - a. HHS, or any component thereof; or
 - b. Any HHS employee in his or her official capacity; or
 - c. Any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or
 - d. The United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any

of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the tribunal or the other party is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

5. HHS contractors who have been engaged by HHS to assist in the performance of a service related to this system of records and who have a need to access the records in order to perform the activity.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders, computer disks, and on password-protected computers or servers.

RETRIEVABILITY:

Records are normally retrieved numerically by the "M Number," a number assigned by the MOD when it receives a record. Records will be cross-referenced by the beneficiary's health insurance claim number; beneficiary's, physician's, provider's, supplier's, or other appellant's name; or ALJ appeal number.

SAFEGUARDS:

a. *Authorized Users:* Only agency employees and contractor personnel whose duties require the use of information in the system. In addition, such agency employees and contractor personnel are advised that the information is confidential and of criminal sanctions for unauthorized disclosure of information.

b. *Physical Safeguards:* Paper records are maintained in file cabinets, offices, and other secure areas to which only authorized individuals have access. Computer terminals are in secured areas that only authorized individuals may use.

c. *Procedural Safeguards:* Employees who maintain records in the system are instructed to grant regular access only to authorized users. Data stored in computers or on servers are accessed through the use of passwords known only to authorized personnel. Contractors who maintain records in this system are instructed to make no further disclosure of the records except as authorized by the system manager and permitted by the Privacy Act.

Privacy Act language is included in contracts related to this system.

RETENTION AND DISPOSAL:

The period of retention of the paper case file depends upon the final action taken by the MAC. If the final action requires the CMS contractor to effectuate a decision, the case file is sent to the contractor immediately after the MAC has entered its final decision. When a case is remanded to an ALJ, the case file is forwarded with the order of remand to the appropriate hearing office. If the MAC enters an unfavorable decision or a denial of review of an ALJ decision, the case file is stored and maintained in the MAC file room for 6 months. If the MAC enters an order of dismissal or a denial of review of an ALJ dismissal, the case file is stored and maintained for 3 months. At the end of the applicable period, the case file is sent to the designated CMS contractor or SSA. If a case is appealed to Federal District Court, the case file is stored and maintained for 3 months after the certified copy of the record has been furnished to the Court and at that point is sent to the contractor or SSA.

Workpaper documents created by the MAC or MOD are not included in the case file and are destroyed at the time the MAC final action is released. Electronic versions of case disposition documents are saved on the computer database for four years and then deleted. Electronic case tracking records are maintained indefinitely on the computer database, with daily updating to the storage area network.

SYSTEM MANAGER AND ADDRESS:

Chief, Medicare Operations Division, Departmental Appeals Board, Department of Health and Human Services, Office of the Secretary, MS 6127, 330 Independence Avenue, SW., Cohen Building, Room G-644, Washington, DC 20201.

NOTIFICATION PROCEDURE:

Individuals inquiring whether this system of records contains information about them should contact the System Manager indicated above. The requester must specify the appellant's name, social security number, health insurance claim number, or docket number.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE(S):

Contact the System Manager at the address specified above, reasonably identify the record, and specify the

information to be contested and corrective action sought with the supporting justification.

RECORD SOURCE CATEGORIES:

The DAB obtains the identifying information in this system from the request for review or referral. Claim file records are obtained from Medicare contractors and ALJ hearing offices.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

Notice of Grant Award to The National Council on the Aging, To Evaluate a Project Entitled, "Cost-Effective and Scalable Strategies for Enrolling Medicare Beneficiaries in Medicare Prescription Drug Extra Help"

AGENCY: Centers for Medicare and Medicaid Services (CMS), HHS.

ACTION: Notice of grant award.

SUMMARY: The Centers for Medicare and Medicaid Services has awarded a grant entitled, "Cost-Effective and Scalable Strategies for Enrolling Medicare Beneficiaries in Medicare Prescription Drug Extra Help" to The National Council on the Aging, 300 D Street, SW., Suite 801, Washington, DC 20024, in response to an unsolicited proposal. The period of performance is March 1, 2006 through February 28, 2007 (Year 1). The applicant proposes to use private-public partnerships to support a five-year strategy of identifying and enrolling eligible beneficiaries through a series of tailored, list-driven intervention approaches already known to be effective in Low-Income Subsidy (LIS) enrollment. The National Council on the Aging (NCOA) is partnering with Benefits Data Trust (BDT) to lead this list-driven intervention research project. They have already received private funds which they plan to award in grants to support test interventions for the proposed study. NCOA expects to test 24-30 intervention approaches over a five-year period.

The NCOA team is soliciting CMS cooperation and support to accomplish two objectives critical to the success of the interventions. First, the proposed project will facilitate an ongoing partnership between NCOA and CMS to refine marketing lists by identifying beneficiaries already enrolled in the