

# **MAXIMUS Federal Program of All-Inclusive Care for the Elderly (PACE) Organization Appeal Process Manual PACE Reconsideration Project**

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*(Please submit only case specific information such as responses to Requests for Information – do not submit confidential case specific information by email)*

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## APPENDIX

These Reconsideration Case Forms and Instructions are contained in the separate Appendix to this Reconsideration Process Manual:

- Appeal Case Forms and Instructions
- Instructions for Reconsideration Background Data Form (RBDF) and Case Narrative
- Reconsideration Background Data Form
- Instructions for Dismissal Case File Data Form (DCFDF)
- Dismissal Case File Data Form
- Notice of Intent to Submit an Expedited Reconsideration Form
- New Reconsideration Case Transmittal Cover Sheet
- Request for Information Response Cover Sheet
- Statement of Compliance Form
- Reopening Request Form
- Statement of Compliance Form- ALJ

## LIST OF EXHIBITS

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***MAXIMUS Federal***

***PACE APPEAL PROCESS MANUAL***

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# 1. INTRODUCTION

The Balanced Budget Act of 1997, as amended by Title II of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA), requires the federal government to contract with an Independent Review Entity (IRE) to review and resolve coverage disputes between Medicare Advantage Organizations and Medicare managed care enrollees. The Centers for Medicare & Medicaid Services (CMS) has contracted with MAXIMUS Federal to serve as this independent entity. Under this contract, MAXIMUS Federal also conducts Appeals for PACE Organizations.

This document describes the procedures for the coordination of PACE Organizations with MAXIMUS Federal in the processing of IRE level appeals, and related post appeal activities. The procedures defined herein only apply to PACE Organizations.

The IRE level appeal is one step in a larger multi-level Medicare appeal process. For example, PACE Organizations are required to adhere to CMS policies for initial interdisciplinary team decisions and PACE Organization determinations--steps that occur prior to the submission of a case file to MAXIMUS Federal. The focus of this manual is on the processes by which PACE Organizations and MAXIMUS Federal interrelate for the IRE level appeal. This manual is not intended to serve as a review of CMS policy governing PACE Organization obligations for the entire appeal process. This manual presumes that the reader has a command of relevant PACE policies in 42 CFR §460.

Certain policies, procedures and operational documents discussed in this manual are mandatory, and complete compliance by the PACE Organization is expected. For such requirements, the terms “must” or “mandatory” is used. In other areas we have attempted to provide the PACE Organization with flexibility, but may have offered suggestions for work methods that we believe will enhance the working relationship between PACE Organizations and MAXIMUS Federal. In these areas, the terms “recommended” or “suggested” or “optional” are used.

Our hope is that the PACE Organization user finds this manual clear and helpful. If not, please do not hesitate to submit comments to:

Cathleen F. MacInnes, Project Director  
PACE Appeal Project  
MAXIMUS Federal  
3750 Monroe Ave. Ste. 702  
Pittsford, NY 14534-1302  
Phone: 585 348-3300  
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## **2: DEFINITIONS**

The following definitions are provided solely for use in this Manual. These definitions do not address all the significant terms used in 42 CFR §460, and in some instances paraphrase or summarize regulatory text.

### **2.1 APPEAL**

A procedure to review a PACE Organization's adverse interdisciplinary team decision that is contested by the participant or their representative. The term appeal applies to such procedures at any level of the multi-step Medicare PACE Organization appeal process (e.g., PACE Organization Appeal, IRE level Appeal, ALJ level Appeal, et al.).

### **2.2 ADJUDICATOR**

An appeal professional employed by MAXIMUS Federal to manage individual Appeal case files. MAXIMUS Federal adjudicators make coverage determinations. Adjudicators do not make medical necessity determinations. Medical necessity determinations are made by fully credentialed board certified physicians under contract with MAXIMUS Federal.

### **2.3 APPEAL SYSTEM**

The entire multi-level Medicare complaint process for addressing participant challenges to an adverse PACE Organization determination. The IRE Appeal process is one level in the broader Medicare appeal system.

### **2.4 DE NOVO REVIEW**

A review of an individual dispute by a new and impartial reviewer. The new and impartial reviewer does not give preference to any previous determinations made on the individual dispute.

### **2.5 DESIGNATED REPRESENTATIVE**

An individual identified by the PACE Organization as a party designated by the participant as his/her representative.

### **2.6 EXPEDITED APPEAL**

A de novo review of an adverse interdisciplinary team decision that must be processed quickly to avoid endangering the life or health of the participant or the participant's ability to regain or maintain maximum function. Generally, expedited appeals must be completed as soon as is medically indicated, but not longer than 72 hours, with a possible extension of up to 14 calendar days if the delay is in the participant's interest (See 42 CFR §460.122(f)).



The PACE Organization has an obligation to determine if an appeal should be expedited, including responding to a participant or their designated representative request for expedited determination. However, MAXIMUS Federal has the authority to expedite processing of an IRE appeal that was not expedited by the PACE Organization.

## **2.7 INDEPENDENT REVIEW ENTITY (IRE)**

The entity under contract with CMS to perform appeals of denials upheld at the PACE Organization level appeal. MAXIMUS Federal is the Independent Review Entity.

## **2.8 INTERDISCIPLINARY TEAM DECISION**

The initial decision of the Interdisciplinary Team to approve or deny a payment for a health care service, or the denial, reduction or termination of a health care service by, or on behalf of, a PACE Organization participant (See 42 CFR §460.104(c)).

## **2.9 PACE ORGANIZATION**

An entity that has a PACE Program Agreement with CMS and the State to provide all-inclusive care to Medicare and Medicaid beneficiaries.

## **2.10 PLAN OF CARE**

A comprehensive plan which specifies the care needed to meet the participant's medical, physical, emotional, and social needs, as identified in the initial comprehensive assessment, and identifies measurable outcomes to be achieved (See 42 CFR §460.106).

## **2.11 PACE ORGANIZATION DETERMINATION**

A de novo review of an adverse PACE Organization interdisciplinary team decision, conducted by the PACE Organization. The PACE Organization Determination is the first level in the appeal system.

## **2.12 INDEPENDENT REVIEW ENTITY DETERMINATION NOTICE**

Letter used to communicate MAXIMUS Federal' final decision regarding an Appeal.

## **2.13 REOPENING**

A second review of a completed IRE appeal determination undertaken at the sole discretion of the IRE to address a potential error in the determination.

## **2.14 REQUEST FOR INFORMATION (RI)**

A MAXIMUS Federal document submitted to the PACE Organization requesting information from the PACE Organization to correct a case file deficiency.

## **2.15 STANDARD APPEAL**

Appeals of denials for service(s) including new or continuing services, which do not meet the criteria for an expedited appeal. Standard appeals also include disputes concerning denial of payment or reimbursement for items or service already received. Standard appeals must be completed within 30 calendar days of the request receipt.

### **3: WORKING WITH MAXIMUS FEDERAL**

This Chapter explains the basic processes for communicating with MAXIMUS Federal, under the following headings:

- 3.1 Sources of Information about MAXIMUS Federal IRE appeals
- 3.2 Set-up of New PACE Organizations with MAXIMUS Federal
- 3.3 Identifying and Changing PACE Organization Points of Contact with MAXIMUS Federal
- 3.4 Seeking Information about Active Cases
- 3.5 Suggestions and Complaints
- 3.6 Holidays

Please note that MAXIMUS Federal is not authorized by CMS to guide or instruct PACE Organizations on interpretation of CMS policies, or matters related to PACE Organization compliance with CMS appeals system requirements. For example, we are not able to offer PACE Organizations advice on how a hypothetical case would be decided if presented to us. Policy inquiries of this type should be directed by the PACE Organization to its designated CMS Account Manager.

#### **3.1 SOURCES OF INFORMATION ABOUT MAXIMUS FEDERAL IRE APPEALS**

*PACE Appeal Project Process Manual*

MAXIMUS Federal maintains and distributes a process manual for the *PACE Appeal Project* as the primary source for information about the IRE program. The manual contains process information specific to the PACE Organization. Copies of the Manual, as well as copies of all MAXIMUS Federal Process Manuals may be found on the Project web site, [www.medicareappeal.com](http://www.medicareappeal.com) (See Exhibit 3-1).

## Exhibit 3-1 Medicare Managed Care & PACE Reconsideration Project Web Site



Case status information on the Project web site is purposefully limited to protect enrollee and PACE Organization confidentiality. The case can be accessed only by the appeal case number that is assigned by the Medicare Appeal System upon receipt of a case file from the PACE Organization. The case number has no logical relationship to Social Security Number, Medicare Number, or any other confidential information. The information that can be obtained by the case number is limited to:

- PACE Organization Contract Number
- IRE Request received date
- IRE Appeal Priority
- PACE Organization Reported Appeal Receipt Date (from the *Appeal Background Data Form*)
- IRE Corrected Appeal Receipt Date (if different than the PACE Organization reported receipt date)
- PACE Organization Extension
- IRE Decision (Uphold, Overturn, Partial Overturn, Withdrawn, Dismissed, or Pending)
- IRE Reopen Decision (if applicable)
- ALJ Decision (if applicable)
- Last Decision Date

### **3.2 SET-UP OF NEW PACE ORGANIZATIONS WITH MAXIMUS FEDERAL**

An entity that has entered into a new PACE Program Agreement with CMS is encouraged to contact MAXIMUS Federal prior to its first enrollment effective date. Call or write the MAXIMUS Federal Project Director (See Manual Page 2, MAXIMUS Federal Contact Information). MAXIMUS Federal will arrange to provide the new PACE Organization a telephonic briefing on the IRE project.

### **3.3 IDENTIFYING AND CHANGING PACE ORGANIZATION POINTS OF CONTACT WITH MAXIMUS FEDERAL**

#### *PACE Organization Key Contact*

As part of new PACE Organization project set-up, MAXIMUS Federal requests that each PACE Organization designate and maintain one Key Organization Contact. PACE Organizations that operate under the CMS program agreement numbers must designate and maintain a Key Organization Contact for each CMS program agreement. The PACE Organization may use the same, or different, personnel as the Key Organization Contact for each program agreement. This individual will be the official management contact with MAXIMUS Federal. MAXIMUS Federal will send the Key Organization Contact all important materials. We will also contact this individual if we encounter a general issue working with the PACE Organization, or an unusual and significant case-specific problem. The PACE Organization should use the Key Contact to initiate contact with MAXIMUS Federal to resolve problems perceived by the PACE Organization. To identify or change this individual, submit the Notice of Change in Key Organization Contact (located in Appendix A) to MAXIMUS Federal.

#### *PACE Organization Individual Appeal Case Contacts*

The PACE Organization must designate a contact person on an Appeal Background Data Form submitted with each Appeal case (See Appendix A). The PACE Organization may, but is not required, to use its Key Contact as the designated case specific contact. The PACE Organization may vary the Case Contact from case to case.

### **3.4 SEEKING INFORMATION ABOUT ACTIVE CASES**

As discussed above, the PACE Organization can obtain basic information concerning the status of active and decided cases via the Project web site, [www.medicareappeal.com](http://www.medicareappeal.com).

In addition, PACE organizations may call us at 585-348-3300. MAXIMUS Federal maintains a staffed switchboard Monday to Friday, from 8:00 am to 5:30 pm and Saturday from 9:00 am to 2:00 pm, Eastern Time. For calls received after normal business hours, the caller may choose to leave a message that will be returned the next business day or may contact us via email at [medicareappeal@maximus.com](mailto:medicareappeal@maximus.com).

For inquiries simply about the processing status of a specific case file, or group of cases, PACE Organizations can either call the above-listed customer service line, email us or check case status on the [www.medicareappeal.com](http://www.medicareappeal.com) website.

MAXIMUS Federal employs a staff of Adjudicators who manage individual case files. Specific questions about a case under review should be directed to the individual Adjudicator assigned to the case in question. Consult MAXIMUS Federal case documentation, or ask the MAXIMUS Federal Customer Service Representative, to identify the Adjudicator assigned to the case. Information that is to be made part of the case file and used in the final determination must be submitted in writing.

PACE Organizations are responsible for supporting their enrollees in the appeal process. PACE Organizations should not direct members to MAXIMUS Federal for routine case status inquiries. PACE Organizations should instruct participants to contact the PACE Organization for routine case status inquiries.

### **3.5 SUGGESTIONS AND COMPLAINTS**

MAXIMUS Federal is an ISO 9001:2008 certified Independent Review Entity. As such, management requires a formal process for identification of opportunities for corrective and preventive action, or continuous improvement. Please freely provide any suggestions or complaints to any MAXIMUS Federal staff member who is interacting with you, or to the Project Director. If you are not completely satisfied, the MAXIMUS Federal QIC Lead would appreciate the opportunity to address your concern.

### **3.6 HOLIDAYS**

MAXIMUS Federal offices will be closed for the following Federal holidays:

- New Year's Day
- Martin Luther King, Jr. Day
- Presidents' Day
- Memorial Day
- Independence Day
- Labor Day
- Columbus Day
- Veterans Day
- Thanksgiving Day
- Christmas Day

MAXIMUS Federal will still accept delivery of case files on those days. If you intend to submit a case for receipt by MAXIMUS Federal on one of the above-listed days, you must contact MAXIMUS Federal via telephone (585-348-3300) at least 24 hours in advance to arrange for case file delivery.

## **4: BACKGROUND-IMPORTANT CONSIDERATIONS PRIOR TO DEVELOPING THE APPEAL CASE FILE FOR SUBMISSION TO MAXIMUS FEDERAL**

The responsibilities of the PACE Organization related to adverse interdisciplinary team decisions (“denials”) and the PACE Organization level Appeal are defined by CMS in 42 CFR §460. This MAXIMUS Federal PACE Appeals Process Manual is based on the presumption that the PACE Organization understands and complies with these CMS policies. This manual is not an instruction guide for them.

The purpose of this Chapter is to highlight certain aspects of PACE Organization interdisciplinary team decision and appeal processing that directly impact subsequent IRE appeals. The topics addressed are:

- 4.1 PACE Organization Interdisciplinary Team Decision and Notice Requirements
- 4.2 PACE Organization Appeal Decision Notice Requirements
- 4.3 PACE Organization Determination of Party, Representative, and Eligible Appeal
- 4.4 Appeal Classes
- 4.5 PACE Organization Responsibility to Conduct a Full PACE Organization Appeal

### **4.1 PACE ORGANIZATION INTERDISCIPLINARY TEAM DECISION AND NOTICE REQUIREMENTS**

A participant (or his or her designated representative) has the right to request to initiate, eliminate or continue services offered by the PACE Organization. The PACE Organization’s interdisciplinary team then must conduct an in-person reassessment of the participant and notify the participant or the designated representative of the decision (“Interdisciplinary team decision”). If the interdisciplinary team does not grant the participant’s request, the PACE Organization is required to provide a written denial notice to the appealing party, in addition to orally notifying the appealing party.

The denial notice should contain the name of the participant, the item or service in dispute and the specific reasons the interdisciplinary team denied the request. It is important that you include this detailed information related to the interdisciplinary team decision in the denial notice. MAXIMUS Federal closely reviews the denial notice to define the denied item or service subject to IRE Appeal.

If the participant or designated representative is dissatisfied with interdisciplinary team’s decision, the PACE Organization is responsible for providing information regarding appeal rights (See 42 CFR §460.104). If a denial is subsequently appealed to MAXIMUS Federal for IRE review, a copy of the denial and dates pertaining to the PACE Organization interdisciplinary team decision processing must be included within the case file. These dates may be reported to MAXIMUS Federal using the *Appeal Background Data Form* (See Section 5 and Appendix).



## **4.2 PACE ORGANIZATION APPEAL DECISION NOTICE REQUIREMENTS**

As stated in the federal regulations, the PACE Organization must give all parties involved in the appeal written notification of its decision (See 42 CFR §460.122(d) and (h)). This decision notice is used to inform the participant of the PACE Organization decision in its review of the disputed decision of the interdisciplinary team. If the decision is wholly or partially adverse to a participant, the PACE Organization must concurrently notify CMS and the State administering agency.

A copy of the completed written decision must be included in the PACE Organization appeal case file. If the adverse PACE Organization decision is subsequently appealed to MAXIMUS Federal for IRE review, a copy of the PACE Organization decision and dates pertaining to PACE Organization processing must be included within the case file. These dates may be reported to MAXIMUS Federal using the *Appeal Background Data Form* (See Section 5 and Appendix).

## **4.3 PACE ORGANIZATION DETERMINATION OF PARTY, REPRESENTATIVE, AND ELIGIBLE APPEAL**

It is the responsibility of the PACE Organization, not MAXIMUS Federal, to determine the appealing party. The appealing party may be the participant, the participant's designated representative or other individual identified by the PACE Organization as acting on behalf of the participant.

It is clear that when the participant initiates the appeal request, he or she is considered the appealing party. It is not as straightforward to determine the appealing party, when the Appeal request is made by a person other than the participant. Special considerations with respect to Appeal requests made by persons other than the participant are discussed under the following sub-headings:

- 4.3.1 Individuals "Supporting" the Participant
- 4.3.2 Representative of Participant
- 4.3.3 Representative of Deceased Participant's Estate

### **4.3.1 INDIVIDUALS "SUPPORTING" THE PARTICIPANT**

Any person, including a provider, may "support" the participant's appeal by providing written or oral testimony at the PACE Organization level appeal or written testimony at the IRE level Appeal. Providing support for a participant's appeal does not necessarily mean that the individual is permitted to make an appeal on the participant's behalf. Therefore, it is important for the PACE Organization to distinguish between those individuals who are acting on behalf of the participant versus those that are merely providing support for the participant's appeal request. If needed the PACE Organization should conduct further investigation to identify the appropriate appealing party.

#### **4.3.2 REPRESENTATIVE OF PARTICIPANT**

It is the responsibility of the PACE Organization to correctly identify and apply any relevant laws or CMS policies related to the appointment of representative by the participant. In general, the participant may designate any person as their representative and the representative for the purposes of the appeal does not necessarily have to be the participant's designated representative.

#### **4.3.3 LEGAL REPRESENTATIVE OF A DECEASED PARTICIPANT'S ESTATE**

The PACE Organization has the responsibility to ensure that such representatives are legitimate. MAXIMUS Federal cannot rule on whether estate representation documentation is legitimate. PACE Organization should consult its legal advisor for assistance in determining the appropriate estate representative.

#### **4.4 APPEAL CLASSES**

There are two classes of Appeal: (1) standard appeal and (2) expedited appeal. These two classes are defined in Section 2. Definitions.

The classification of an appeal as either an expedited or standard appeal is the responsibility of the PACE Organization. However, MAXIMUS Federal has the right to change a classification, if upon receipt, MAXIMUS Federal determines the case was misclassified. The PACE Organization should not ask MAXIMUS Federal to determine whether a given request for expedited appeal should be granted.

#### **4.5 PACE ORGANIZATION RESPONSIBILITY TO CONDUCT A FULL PACE ORGANIZATION APPEAL**

PACE Organizations are required to conduct a thorough PACE Organization level appeal, prior to submitting a case to MAXIMUS Federal for IRE level review. Consult 42 CFR §460.122 for the PACE Organization's obligations in conducting its appeal. In addition, the MAXIMUS Federal requirements and suggestions for IRE level case file preparation (See Section 5.3) will be difficult to meet if the PACE Organization has not previously undertaken and documented a full PACE Organization level appeal.

MAXIMUS Federal will utilize the "Request for Information" process (See Section 6.6), to direct PACE Organizations to remedy a case in which a complete PACE Organization level appeal has not occurred. MAXIMUS Federal will notify CMS if a PACE Organization displays a pattern of failure to complete and document a thorough PACE Organization level appeal.

Prior to submitting a case for appeal, the PACE Organization should exhaust all reasonable efforts to obtain the required evidence and records. If the PACE Organization is

submitting a case file with incomplete evidence, the PACE Organization should document these efforts in the case file submitted to MAXIMUS Federal.

## **5: SUBMITTING THE APPEAL CASE FILE TO MAXIMUS FEDERAL**

This Chapter defines the requirements for PACE Organization preparation and submission of case files to MAXIMUS Federal for IRE level Appeal under the following headings:

- 5.1 Cases That Must Be Submitted to MAXIMUS Federal
- 5.2 Timeliness of Submission of Expedited Cases
- 5.3 Preparation and Submission of the New Case File to MAXIMUS Federal

### **5.1 CASES THAT MUST BE SUBMITTED TO MAXIMUS FEDERAL**

Federal Regulation 42 CFR §460.124 defines cases that may be submitted for IRE review. The PACE Organization should submit cases if the initial adverse interdisciplinary team decision has not been wholly reversed and for which the appealing party requests independent review through the Medicare appeals process. If the PACE Organization subsequently obtains or develops additional information on any case, it must submit that information to MAXIMUS Federal. However, MAXIMUS Federal will not delay its review and makes no guarantee that such (late) additional information can be taken into account prior to the IRE determination.

### **5.2. TIMELINESS OF SUBMISSION OF EXPEDITED CASES**

Federal regulations 42 CFR §460.122 require the PACE Organization to complete expedited cases within 72 hours of the participant's request, or sooner if the participant's health condition requires. The PACE Organization may take an extension of up to 14-calendar days, if such extension is in the participant's interest. The participant may provide supporting documentation to substantiate an expedited appeal.

Submission of cases must occur as soon as possible after the PACE Organization's completion of its appeal determination and the appealing party's request for independent review by the IRE. It is expected that the case file submission can occur within 24-hours. The 24-hour period permitted for submission is thus in addition to the time permitted for the PACE Organization Appeal.

### **5.3 PREPARATION AND SUBMISSION OF THE NEW CASE FILE TO MAXIMUS FEDERAL**

Addressed below are suggested instructions for the PACE Organization on the physical construction of a case file submitted to MAXIMUS Federal for IRE Appeal. The topics are addressed under the following subheadings:

- 5.3.1 Initiation of Expedited Cases
- 5.3.2 Organization of the New Case File Package

- 5.3.3 Organization of Individual New Case Files
- 5.3.4 Confirmation of MAXIMUS Federal Case Receipt

As explained below, the PACE Organization must include with each case a PACE Organization *Appeal Background Data Form* and a structured *Case Narrative* report. The instructions for this form and report are presented in Appendix A, and should be thoroughly reviewed since the instructions are integral to an understanding of case preparation and submission requirements.

### **5.3.1 INITIATION OF EXPEDITED CASES**

To initiate submission of an expedited case, the PACE Organization must fax or email MAXIMUS Federal a *Notice of Intent to Submit Expedited Appeal* form (See Appendix A). We require this form to enable work planning for these short turn-around cases, and also to alert the PACE Organization if a planned case delivery does not occur.

To protect participant confidentiality, PACE Organizations must not fax or email the actual expedited case file itself. MAXIMUS Federal will not initiate an expedited case that is sent via facsimile until a hard copy of the case file is received. Follow the instructions for case delivery in Section 5.3.2.

Note that because of the short turn-around time for expedited cases, MAXIMUS Federal does not send the appellant or PACE Organization an Acknowledgement Letter for such cases.

### **5.3.2 ORGANIZATION OF THE NEW CASE FILE PACKAGE**

The “New Case File Package” is the envelope or container in which the PACE Organization ships MAXIMUS Federal one or more new case files. MAXIMUS Federal offices are open to accept case file delivery Monday through Saturday and most holidays. Address packages to:

MAXIMUS Federal  
PACE Appeal Project  
3750 Monroe Ave. Ste. 702  
Pittsford, New York 14534-1302

The PACE Organization may include more than one new case in the package submitted to MAXIMUS Federal:

- Complete and place the form, *New Appeal Case File Transmittal Cover Sheet* (See Appendix) on top of the case file package.
- Place each case in the package in a separate envelope.
- Do not staple or permanently bind case file material. Use of clips or binders that can be removed without special equipment is permissible.
- Do not include any material in a “new” case file package submitted to MAXIMUS Federal that is not related to a new case.

### **5.3.3 ORGANIZATION OF INDIVIDUAL NEW CASE FILES**

Within the new case package, the PACE Organization must enclose each case in its own separate envelope. Within this envelope, the organization of the case will be in the following order, “top” of file to “bottom”.

- *Medicare PACE Appeal Background Data Form (See Appendix)*
- *Case Narrative (See Appendix)*
- *Case Material (See Exhibit 5-1)*

### **5.3.4 CONFIRMATION OF MAXIMUS FEDERAL CASE RECEIPT**

MAXIMUS Federal does not accept responsibility for loss or delay of case files caused by the US Mail or other delivery services. We do attempt to notify PACE Organizations and the other party to the appeal of receipt of case files, as follows.

#### *Expedited Cases*

If the PACE Organization submits a *Notice of Intent to Submit an Expedited Appeal Form*, MAXIMUS Federal will contact the PACE Organization if the file does not arrive on the date identified in the form. MAXIMUS Federal does not send an Acknowledgement Letter, due to the short time available for case processing. Our receipt of the file is confirmed by the PACE Organization and other party’s receipt of our Appeal Determination Letter (See Section 6.7).

#### *Standard Appeal*

MAXIMUS Federal sends the PACE Organization and appealing party an Acknowledgement Letter by regular first class mail within two (2) business days of our receipt of the case file. Allowing for time for delivery of the PACE Organization’s case to MAXIMUS Federal, the PACE Organization should contact MAXIMUS Federal if it has not received the Acknowledgement Letter within 10 business days of its case submission.

#### *Dismissal Review Cases*

MAXIMUS Federal does not send an Acknowledgement Letter for these types of cases. When the request for a review of the PACE Organization’s dismissal is received, MAXIMUS Federal will request the case file from the PACE Organization. Our receipt of the file is confirmed by the appealing party’s and PACE Organization’s receipt of our determination notice (See Section 8).

## Exhibit 5-1

### EXPLANATION OF “CASE MATERIAL”

"Case material" refers to all supporting notices, documentation, medical records, call logs, and other materials. Case material should be placed in a standard order, "top" of file to "bottom," as follows:

- Notices
  - Appointment of Representative (if applicable)
  - PACE Organization Interdisciplinary team decision Denial Notice
  - Notice of PACE Organization Appeal Determination
  - Record of Adverse Determination and Internal PACE Appeal
  - Notice of Extension to timeframe taken in enrollee interest (if applicable)
  
- Record of Adverse Determination and PACE Organization Appeal
  - Documentation of the interdisciplinary team’s arguments in defense of their decision
  - Documentation of arguments of participant or participant’s representative
  - Any letters of support from members of the interdisciplinary team or other providers
  - Complete report from the credentialed unbiased third party
  - Chronology of events leading up to the appeal
  
- PACE Organization Decision Making Criteria
  - Complete copy of formulary policy for pharmacy cases, on CD-ROM
  - Complete copy of any standards of practice utilized
  - Complete copy of internal medical policy (e.g., choice of drug for treatment of a particular condition), utilization review criteria, technology assessment, or other cited medical criteria
  
- Medical Records

## 6: MAXIMUS FEDERAL APPEAL PROCESS

The purpose of this Chapter is to provide the PACE Organization with an overview of the procedures and approach that MAXIMUS Federal follows in rendering the IRE level appeal. Although the focus is on MAXIMUS Federal procedures, implications for the PACE Organization are highlighted in text contained in the boxes. The topics addressed are:

- 6.1 MAXIMUS Federal Case Processing Time Standards
- 6.2 Administrative Case Intake
- 6.3 Policies on Communication with PACE Organization and Appellant during Case Processing
- 6.4 Adjudicator Case Review
- 6.5 Physician Review
- 6.6 Requests to PACE Organization for Additional Information
- 6.7 MAXIMUS Federal Determination Notices
- 6.8 Participant Requests for Case Files

### 6.1 MAXIMUS FEDERAL CASE PROCESSING TIME STANDARDS

MAXIMUS Federal is responsible for completing the IRE Determination within a specific time frame.

CASE CLASS	TIME STANDARD
Expedited	72 hours, plus 14 calendar day extension if in participant's interest, or sooner if warranted by participant's medical condition
Standard Service	30 calendar days, plus 14 calendar day extension if in participant's interest, or sooner if warranted by participant's medical condition
Standard Claim	60 calendar days

In expedited cases and standard service cases, MAXIMUS Federal may extend the decision timeframe by up to 14 calendar days if it is in the participant's interest. MAXIMUS Federal will notify the participant and PACE Organization of the extension in writing.

The start of the time period for IRE Appeal is the date on which the case is received at MAXIMUS Federal. The end of the time period is the date on which MAXIMUS Federal mails its Appeal Determination notice. Determinations are sent to appellants by standard first class mail, and faxed to PACE Organizations.

### 6.2 ADMINISTRATIVE CASE INTAKE

The steps in MAXIMUS Federal administrative case intake are:

- Mail Opening and sorting of new case files



- Matching of expedited cases to PACE Organization *Notice of Intent to Submit Expedited Case* forms
- Inquiry on CMS systems to verify participant enrollment in PACE Organization
- Medicare Appeal System assignment of a random appeal case number
- Generation of acknowledgement letters (standard service and claim only)
- Assignment of the case to a MAXIMUS Federal Adjudicator

Note that our ability to accomplish case intake is compromised if the PACE Organization does not provide the participant's Medicare number and all other required fields on the *Appeal Background Data Form* (See Appendix). Errors or omissions on the *Appeal Background Data Form* will lead to delays in MAXIMUS Federal' intake and processing of the case.

### **6.3 POLICIES ON COMMUNICATION WITH PACE ORGANIZATION AND APPELLANT DURING CASE PROCESSING**

#### **6.3.1 ALL EVIDENCE MUST BE IN WRITING**

Federal regulations define the IRE level Appeal as a de novo determination based upon the documented case file. The IRE level appeal does not provide for in-person or telephonic hearings. This means that MAXIMUS Federal may consider only such evidence as is submitted and available in the hard copy record.

If any party calls MAXIMUS Federal, they are advised that the information they relay will not be considered unless it is submitted in writing. A party should follow up any "telephone testimony" immediately with written documentation.

#### **6.3.2 COMMUNICATIONS REGARDING THE POTENTIAL IRE DETERMINATION ARE NOT PERMITTED**

MAXIMUS Federal personnel are not permitted to engage in written or phone communication with parties, where the subject of such communication is any discussion or projection of the IRE determination that MAXIMUS Federal may make. Discussions are limited to review of the IRE process, including instructions on the procedures for submission of written information to MAXIMUS Federal.

#### **6.3.3 PARTICIPANT SUBMISSION OF ADDITIONAL INFORMATION TO THE IRE CASE FILE**

The MAXIMUS Federal Acknowledgement Letter, which is sent to the participant or valid representative, advises the participant of their ability to submit information or arguments directly to MAXIMUS Federal. The Acknowledgement Letter is not used for expedited cases. For Standard Appeals, the participant is given 10 days to submit information to MAXIMUS Federal.

MAXIMUS Federal may provide a PACE Organization information that the PACE Organization has submitted, but MAXIMUS Federal may not provide information submitted by the participant. If information submitted by the participant is not already contained in the case file, and if the information calls into question material submitted by the PACE Organization, MAXIMUS Federal may request clarification via a Request for Information (See Section 6.6).

Participants may be less likely to submit information directly to MAXIMUS Federal if the participant believes that: (1) the PACE Organization has provided the participant the chance to submit evidence to the PACE Organization and (2) the PACE Organization has advised the participant that the entire case file has been submitted to MAXIMUS Federal.

#### **6.4 ADJUDICATOR CASE REVIEW**

An Adjudicator is a professional trained by MAXIMUS Federal to manage the IRE case appeal. Adjudicators are not permitted to make medical necessity determinations, which require physician review (See Section 6.5).

The Adjudicator may contact the PACE Organization Case Contact by phone or email to address simple factual questions about the case, or may make contact via the Request for Information Process. It is important that the PACE Organization Case Contact respond promptly or, if not available, makes arrangements for another PACE Organization employee to act as the point of contact. The PACE Organization Case Contact can identify the Adjudicator assigned to a case by calling MAXIMUS Federal.

#### **6.5 PHYSICIAN REVIEW**

A physician must make IRE determinations of medical necessity, where physician is defined to include medical doctors, doctors of osteopathy, and doctors of chiropractic. MAXIMUS Federal maintains a panel of over 500 medical consultants who are fully credentialed to the standards of our accrediting body, URAC. These medical consultants are located throughout the United States, are in active practice, and include a mix of physicians who predominately practice in community versus academic settings.

The MAXIMUS Federal medical consultants cover all specialties and all relevant sub-specialties recognized by the American Board of Medical Specialties (ABMS). Physicians are matched to cases based upon the case clinical issue. For most cases, this means that the specialty of the MAXIMUS Federal reviewer is the same as the specialty of the physician who would render the contested service. In cases in which the issue is the appropriateness of a referral from one specialist to another (for example, internal medicine to dermatology), MAXIMUS Federal may choose to use the specialty of the referring physician.

The physician consultant's report is reviewed by the Adjudicator and, if need be, the MAXIMUS Federal Medical Director. Special emphasis is placed on ensuring that the Consultant's determination is consistent with any relevant PACE Organization policies.

## 6.6 REQUESTS TO PACE ORGANIZATION FOR ADDITIONAL INFORMATION

"Request for Additional Information" (RI) is the formal process by which MAXIMUS Federal permits the PACE Organization to supply written information to remedy a question or deficiency in the appeal case file.

### 6.6.1 REQUEST FOR ADDITIONAL INFORMATION IS AT MAXIMUS FEDERAL DISCRETION

The MAXIMUS Federal appeal review is designed as an "on the record" review rather than an "in person" proceeding. Therefore, the PACE Organization appeal case file must include all materials submitted and used in making the PACE Organization appeal determination and all such material as is specified in Section 5.3.

The IRE is under no obligation to seek additional information. The PACE Organization bears the burden to show why the denial is appropriate. Therefore, **missing information is reasonably construed to the participant's favor**. MAXIMUS Federal may decide a case at any time based upon the information available. MAXIMUS Federal does not overturn the PACE Organization for case file deficiencies, per se, or on an administrative basis. However, a case file deficiency typically undermines the validity of the denial argument of the PACE Organization, hence missing information may result in an IRE overturn.

### 6.6.2 REQUEST FOR INFORMATION PROCESS

*NOTE: THIS ENTIRE SUB-SECTION CONTAINS DISCUSSION OF RELATED PACE ORGANIZATION RESPONSIBILITIES AND SHOULD BE READ CAREFULLY.*

The process used by MAXIMUS Federal for *Request for Information* is as follows:

- The Adjudicator (or physician consultant) determines the deficiency and double checks the case file to verify the information is, in fact, absent.
- The Adjudicator completes a Request for Information Form (See Appendix B).
- The Adjudicator faxes or emails the Request for Information Form to the fax number or email address provided for the Case Contact on the Appeal Background Data Form.
- The PACE Organization Case Contact returns an email to MAXIMUS Federal confirming receipt of the Request for Information.
- The PACE Organization Case Contact calls MAXIMUS Federal if:
  - Questions exist about the RI, or

- The RI deadline (See Section 6.6.3) cannot be met.
- The PACE Organization develops the RI Response and submits the RI response to MAXIMUS Federal
- The Adjudicator reviews the RI response to determine if it is sufficient. If not:
  - Minor omissions are resolved by phone;
  - Major omissions may lead to a repeat of the RI process or may lead to MAXIMUS Federal decision based on available documents.

**6.6.3 PACE ORGANIZATION SUBMISSION OF THE RESPONSE TO A REQUEST FOR INFORMATION**

To protect patient confidentiality in accordance with federal standards, the PACE Organization must not transmit confidential information to MAXIMUS Federal by email or fax. All confidential information must be submitted to MAXIMUS Federal by hard copy mail or delivery. For purposes of this discussion, the MAXIMUS Federal assigned appeal number is not considered confidential information.

- If hard copy delivery is used for an RI response, the PACE Organization must place the Request for Information Response Cover Sheet (See Appendix A) on top of the response documents.
- If the PACE Organization places more than one RI response in a package, the PACE Organization must separate each RI response with the Request for Information Response Cover Sheet.

The PACE Organization may respond to a Request for Information by fax if the PACE Organization can fully address the RI requirements without use of confidential identifiers, or by redacting such identifiers. The following maximum time frames apply for PACE Organization response to MAXIMUS Federal Requests for Information:

Expedited appeals	Within 3 calendar days from date of request
Standard Service appeals	Within 5 working days from date of request
Standard Claims appeals	Within 10 working days from date of request

The above time frame deadline is for the date of PACE Organization submission (mailing or fax) of the material to MAXIMUS Federal. Expedited RI responses must be submitted by fax (if material does not contain confidential information) or by overnight delivery.

MAXIMUS Federal may expedite an RI request if such action is necessary due to the participant’s health.

**6.7 MAXIMUS FEDERAL DETERMINATION NOTICES**

## **6.7.1 MAXIMUS FEDERAL APPEAL DETERMINATION DEFINITIONS**

Upon completion of its appeal, MAXIMUS Federal issues an Appeal Determination letter to the appealing party, with a copy to the PACE Organization and CMS (See Appendix B). The general categories of IRE Appeal Determination Notices include:

*Uphold of Denial*- MAXIMUS Federal concurs with the PACE Organization's initial interdisciplinary team decision. MAXIMUS Federal decides fully in favor of the PACE Organization and against the party requesting the appeal.

*Uphold of Dismissal*- MAXIMUS Federal concurs with the PACE Organization's dismissal of a participant's or representative's request for an appeal of an initial interdisciplinary team's decision.

*Overturn of Denial* - MAXIMUS Federal disagrees with the PACE Organization's initial interdisciplinary team decision. MAXIMUS Federal decides against the PACE Organization and fully in favor of the party requesting the appeal.

*Overturn of Dismissal*- MAXIMUS Federal disagrees with the PACE Organization's dismissal of a participant's or representative's request for an appeal of an initial interdisciplinary team's decision.

*Partial Overturn of Denial*- MAXIMUS Federal disagrees with a portion of the PACE Organization's initial interdisciplinary team decision. MAXIMUS Federal decides in part against the PACE Organization and in part in favor of the PACE Organization.

*Appeal Request Withdrawn* - The appealing party (participant or qualified representative) may withdraw its request for an appeal. Withdrawal requests must be documented to MAXIMUS Federal in writing before the case will be withdrawn. In addition, the PACE Organization may request a withdrawal, if subsequent to submitting the case file to MAXIMUS Federal, the PACE Organization decides to reverse its original interdisciplinary team denial.

*Dismissal of Appeal Request* - MAXIMUS Federal determines that a participant's or representative's request for an appeal of an initial interdisciplinary team's decision or the PACE Organization's appeal decision is not valid.

## **6.7.2 GENERAL CHARACTERISTICS OF IRE APPEAL DETERMINATION NOTICES**

All IRE Appeal Determination Notices, except Uphold of Dismissal determinations, that are not fully in the participant's favor contain an explanation of the participant's right to request further appeal before an Administrative Law Judge.

An IRE Appeal Determination Notice that overturns a PACE Organization determination contains an explanation of how the participant can obtain the disputed payment or service. The participant is directed to the PACE Organization to obtain the service or claim payment.

An IRE Appeal Determination Notice that partially reverses a PACE Organization determination explains the participant's further appeal rights and how the participant can obtain the disputed payment or covered services.

Although an IRE Appeal Determination may address or discuss medical care and treatments, the IRE Appeal Determination is not an assessment of quality of care, nor is it medical advice or instruction. An IRE Appeal Determination is a ruling on the PACE Organization's obligation for coverage (payment or arrangement for a specific benefit, service or treatment).

For any full or partial overturn determination, MAXIMUS Federal also issues the PACE Organization a *Notice of Requirement to Comply* (See Appendix B). This document references the overturn determination notice and advises the PACE Organization of its obligation to effectuate the overturn decision.

## **6.7.3 TRANSLATION OF DETERMINATION NOTICES**

Upon request of the participant or PACE Organization, MAXIMUS Federal is required by CMS to translate its final Appeal Determination Notice into the native language of the participant. The PACE Organization notifies MAXIMUS Federal of the need for translation on the *Appeal Background Data Form* (See Appendix).

## **6.8 PARTICIPANT REQUESTS FOR CASE FILES**

The MAXIMUS Federal Acknowledgement Letter and brochure advise participants of the right to obtain a copy of the appeal case file from the PACE Organization and/or MAXIMUS Federal. Under instruction from CMS, and subject to the provisions of the Privacy Act and Freedom of Information Act, MAXIMUS Federal will release a copy of an appeal case file to a participant, or other authorized individual.

MAXIMUS Federal may release to a PACE Organization only copies of documentation the PACE Organization has submitted in the case file.

## **7: POST APPEAL DETERMINATION PROCESSING**

A number of processes may be invoked after MAXIMUS Federal issues its Appeal Determination. This Chapter provides useful information on these various post determination processes. The topics addressed are:

- 7.1 MAXIMUS Federal Monitoring of PACE Organization Compliance (“Effectuation”) of IRE Overturns
- 7.2 IRE Reopening Process
- 7.3 Administrative Law Judge (ALJ) Process
- 7.4 Medicare Appeals Council (MAC) Process

### **7.1 MAXIMUS FEDERAL MONITORING OF COMPLIANCE WITH OVERTURNED DETERMINATIONS**

Compliance (“effectuation”) is defined as the PACE Organization’s payment of a claim (overturned standard claim denial) or authorization and arrangement for a service or continuation of services (overturned expedited or standard service denial) as instructed in the MAXIMUS Federal Appeal Determination Notice.

#### **7.1.1 PACE ORGANIZATION EFFECTUATION**

CMS requires PACE Organizations to comply with MAXIMUS Federal Appeal Determinations in a timely manner. If you have questions regarding an IRE Appeal Determination, please contact the MAXIMUS Federal Project Director of the PACE Appeal Project. Please note MAXIMUS Federal is not authorized to waive compliance with any final determination. If you feel that you cannot comply with the IRE Appeal Determination, you must notify your CMS Account Manager.

A PACE Organization request for a reopening (See Section 7.2), whether granted by MAXIMUS Federal or not, does not stay or pend the date of the PACE Organization compliance obligation.

#### **7.1.2 MAXIMUS FEDERAL APPEAL COMPLIANCE MONITORING**

CMS requires MAXIMUS Federal to monitor PACE Organization compliance with the effectuation process, via the following procedure:

1. MAXIMUS Federal issues the PACE Organization a copy of the Appeal Determination Notice. Included with this copy is a *Notice to Comply with MAXIMUS Federal Appeal Determination*, that details the PACE Organization’s responsibilities, including the timeframe by which a compliance notice must be received by MAXIMUS Federal (See Appendix B).
2. The PACE Organization is required to submit a statement attesting to compliance (effectuation) to MAXIMUS Federal. The Statement must be submitted to MAXIMUS

Federal in accordance with timeframes noted within the *Notice to Comply with MAXIMUS Federal Appeal Determination*.

3. MAXIMUS Federal provides 5 days from the due date of submission for mailing.
4. If MAXIMUS Federal does not receive the PACE Organization statement of compliance within the required timeframe, MAXIMUS Federal will send to the PACE Organization a reminder notice.
5. If within 2 weeks MAXIMUS Federal still does not receive the PACE Organization statement of compliance, MAXIMUS Federal reports the PACE Organization's deficiency to CMS. The PACE Organization is not copied on this report to CMS.

The PACE Organization statement of compliance may be in a form designed by the PACE Organization, but must contain all of the information found on the recommended *PACE Organization Statement of Compliance Form* contained in the Appendix. Please do not submit unidentified internal computer screen prints as the statement of compliance.

PACE Organization *Statements of Compliance* must be mailed separately from other PACE Organization correspondence, to the attention of:

MAXIMUS Federal  
PACE Reconsideration Project  
Attn: Compliance  
3750 Monroe Ave. Ste. 702  
Pittsford, NY 14534-1302

## **7.2 IRE REOPENING PROCESS**

An IRE Reopening is an administrative procedure in which the IRE re-evaluates its Appeal Determination for the purpose of addressing an error, fraud, or information not available at the time of IRE initial determination. A reopening is not an appeal right. MAXIMUS Federal may accept or reject a request for a reopening at its sole discretion.

MAXIMUS Federal may initiate a reopening on its own initiative. In addition, either of the parties to an Appeal Determination may request a reopening. The reopening request must be in writing and clearly state the basis on which the request is made:

1. Error on the face of the evidence by MAXIMUS Federal in its review;
2. Fraud; or
3. New and additional information that was not available at the time MAXIMUS Federal made its initial determination in the case.

The process by which MAXIMUS Federal administers and adjudicates a reopening request is similar to the Appeal Process:

1. MAXIMUS Federal receives and logs the *Reopening Request*.
2. An Acknowledgement Letter is sent to the party and PACE Organization.



3. An Adjudicator not involved in the Appeal reviews the Reopening.
4. The Adjudicator makes a determination, using a physician review if indicated.
5. A Reopening Determination Notice is issued.
6. If the Reopening Determination reverses an Appeal Uphold (i.e., the Reopening finds in favor of the participant), a *Notice to Comply* is also issued to the PACE Organization. The PACE Organization is then responsible for effectuation per the discussion of compliance in Section 7.1 above.

A PACE Organization's request for a reopening does not relieve the PACE Organization of the burden of compliance, and reporting of compliance, within the required time frames. The PACE Organization is relieved of this burden if the PACE Organization obtains a Reopening Reversal (of an Appeal Overturn), prior to the PACE Organization compliance date. The PACE Organization is not relieved of the burden of compliance with the original Appeal overturn if the PACE Organization receives a Reopening Reversal after the original compliance date.

MAXIMUS Federal attempts to process Reopenings within the same time standards that are applied to Appeals.

### **7.3 ADMINISTRATIVE LAW JUDGE PROCESS**

The appellant (participant, his/her authorized representative) may request an appeal of the MAXIMUS Federal appeal determination before an Administrative Law Judge (ALJ) with the Office of Medicare Hearings and Appeals. MAXIMUS Federal does not determine a participant's right to a hearing, nor does it schedule, conduct, or administer hearings.

The PACE Organization does not have a right to request an ALJ hearing. The PACE Organization does have the right to be present at the ALJ hearing and the right to present additional evidence at the hearing.

#### **7.3.1 NOTICE OF RIGHTS TO HEARING AND SUBMISSION OF REQUEST FOR ALJ HEARING**

The right to request an ALJ hearing is explained in the MAXIMUS Federal Appeal Determination Notice. A written request must be submitted to request an ALJ Hearing. This written request can be submitted to MAXIMUS Federal, or the PACE Organization. If the PACE Organization receives a request for an ALJ hearing, it should immediately forward the request to MAXIMUS Federal for processing.

MAXIMUS Federal forwards the ALJ request and appeal case file to the appropriate Office of Medicare Hearings and Appeals. MAXIMUS Federal simultaneously sends an ALJ Request Acknowledgment Letter to the requesting party, with a copy to the PACE Organization. MAXIMUS Federal does not communicate directly with PACE Organizations or parties during the Administrative Law Judge hearing process. MAXIMUS Federal' role is limited to providing complete case files to the ALJ field office.

### **7.3.2 TRACKING AND CONDUCT OF ALJ HEARING**

MAXIMUS Federal does not schedule ALJ hearings and does not have direct access to ALJ scheduling information. The Office of Medicare Hearings and Appeals is responsible for contacting the requesting party and PACE Organization to schedule the matter before the ALJ. Both parties (i.e. requesting party and the PACE Organization) have a right to be present and present testimony at the ALJ hearing. Any concerns regarding the ALJ hearing should be directed to the Office of Medicare Hearings and Appeals.

### **7.3.3 ALJ DETERMINATION PROCESSING**

The ALJ Determination is mailed directly to both parties (participant and PACE Organization). The Office of Medicare Hearings and Appeals returns a copy of the ALJ decision and the complete case file to MAXIMUS Federal. MAXIMUS Federal reviews the ALJ determination for two purposes:

1. MAXIMUS Federal determines whether the PACE Organization was given the opportunity to appear at the ALJ Hearing. If not, MAXIMUS Federal informs the PACE Organization.
2. If the ALJ has reversed or modified MAXIMUS Federal' appeal determination, MAXIMUS Federal sends a copy of the ALJ determination to the PACE Organization with a *Notice to Comply* (See Appendix). MAXIMUS Federal also sends a copy of this notice to the appealing party.

The PACE Organization is obligated to effectuate the ALJ's determination as expeditiously as the participant's health condition requires, but no later than 60 calendar days from the date it receives notice reversing the interdisciplinary team decision.

The PACE Organization must report the compliance to MAXIMUS Federal in the same manner as for a MAXIMUS Federal appeal reversal.

### **7.4 MEDICARE APPEALS COUNCIL (MAC) PROCESS**

Federal regulations permit either party to an ALJ hearing to request a further hearing before the MAC. If a hearing before the MAC is requested, MAXIMUS Federal is contacted by the MAC to provide a copy of the entire case file in dispute.

MAXIMUS Federal does not communicate directly with PACE Organizations or parties regarding the MAC review process. MAXIMUS Federal' role is to provide complete case files to the MAC.

#### **7.4.1 TRACKING AND CONDUCT OF MEDICARE APPEALS COUNCIL HEARING**

MAXIMUS Federal does not schedule MAC hearings and does not have direct access to MAC scheduling information. Any concerns regarding the MAC hearing process should be directed to the Medicare Appeals Council.

#### **7.4.2 MEDICARE APPEALS COUNCIL DETERMINATION PROCESSING**

The MAC Determination is mailed directly to both parties (participant and PACE Organization). The PACE Organization is obligated to effectuate the MAC's determination as expeditiously as the participant's health condition requires, but no later than 60 calendar days from the date it receives notice reversing the interdisciplinary team decision.

The PACE Organization must report the compliance to MAXIMUS Federal in the same manner as for a MAXIMUS Federal appeal reversal.

## **8. PACE ORGANIZATION DISMISSAL PROCESSING AND APPEALS**

Beginning January 1, 2014, **PACE Organizations are not required to automatically forward dismissed appeal requests to MAXIMUS Federal.** Rather, PACE Organizations are required, when dismissing an appellant's appeal request, to inform the appellant about the right to request IRE review of the dismissal. CMS guidance explicitly states that PACE Organizations should use the model *Notice of Dismissal of Appeal Request* to advise appellants when their request is being dismissed. Appellants will then have the right to request review of the PACE Organization's dismissal determination directly to MAXIMUS Federal. Topics discussed in this section are:

- 8.1 Notice of Dismissal of Appeal Request
- 8.2 Dismissal Case File Requests
- 8.3 MAXIMUS Federal Review of Dismissal Decision
- 8.4 Dismissal Case File Documentation
- 8.5 Timeframes for MAXIMUS Federal Review
- 8.6 Dismissal Decisions are binding

### **8.1 NOTICE OF DISMISSAL OF APPEAL REQUEST**

The *Notice of Dismissal of Appeal Request* provides MAXIMUS Federal with sufficient information to begin processing an appellants' dismissal review request. MAXIMUS Federal recommends that PACE Organizations include either the PACE Organization appeal case number or the date of services on the *Notice of Dismissal of Appeal Request*.

Appellants should either fax or mail a copy of this *Notice of Dismissal of Appeal Request*, along with any supporting documentation relevant to the review request, directly to MAXIMUS Federal.

### **8.2 DISMISSAL CASE FILE REQUESTS**

When MAXIMUS Federal receives a dismissal review request from the appellant, MAXIMUS Federal will request, via fax, a copy of the case file from the PACE Organization. The request for the case file will be faxed to the number shown on the *Notice of Dismissal of Appeal Request* form. MAXIMUS Federal will request the case file as soon as is practical, but no later than within two business days of receipt of the dismissal review request.

Per CMS guidance, PACE Organizations will have 24 hours from receipt of the case file request to forward the requested case file to MAXIMUS Federal. CMS permits a 5-day mailing window for receipt of case files; it is not necessary to send dismissal case files via overnight delivery.

### **8.3 MAXIMUS FEDERAL REVIEW OF DISMISSAL DECISION**

Once MAXIMUS Federal has received the case file from the PACE Organization, MAXIMUS Federal will review the contents of the file and the *Notice of Dismissal of Appeal Request*, along with any supplemental information submitted by the appellant. After this review, MAXIMUS Federal will determine if the PACE Organization's dismissal was appropriate.

If MAXIMUS Federal agrees that the dismissal was appropriate, MAXIMUS Federal will affirm the PACE Organization's dismissal.

If MAXIMUS Federal finds that the PACE Organization's dismissal was NOT appropriate (or new information has been discovered since the time of the PACE Organization's dismissal making the appeal request valid), MAXIMUS Federal will overturn the PACE Organization's dismissal and advise the PACE Organization that it needs to perform a substantive review and decision.

#### **8.3.1 FACTORS THAT MAY RESULT IN AN OVERTURN OF A PLAN'S DECISION TO DISMISS**

- The appellant has shown good cause for filing their appeal outside of the 60-day appeal window and the reason for the PACE Organization's dismissal is untimely filing of the appeal.
- The PACE Organization has not provided proof that it made attempts to secure representative or Waiver of Liability documentation in accordance with Chapter 13 of the Medicare Managed Care Manual.

If MAXIMUS Federal decides that the PACE Organization's dismissal should be overturned, then the PACE Organization is responsible for rendering a full, substantive review and decision of the issue at appeal. If, at the end of this review and decision, the PACE Organization denies coverage of or payment for the item or service in dispute, in whole or in part, and if the appellant wishes to appeal under Medicare, the PACE Organization should follow the appropriate steps for forwarding the case for independent review to MAXIMUS Federal as per the instructions in this Manual.

Please note: when PACE Organizations send these cases to MAXIMUS Federal for substantive review, PACE Organizations should include in the case file a copy of the MAXIMUS Federal overturn decision from the dismissal review. The date of the overturn decision will serve as the date of the appeal request for purposes of completing the *Appeal Background Data Form*.

## **8.4 DISMISSAL CASE FILE DOCUMENTATION**

For dismissal review case files being submitted by the PACE Organization at MAXIMUS Federal' request, PACE Organizations should send an abbreviated case file. The case file should include:

- The *Medicare PACE Dismissal Case File Data Form*
- A Dismissal Case File Narrative
- The organization determination documents
- The appeal request documents
- A copy of the *Notice of Dismissal of Appeal Request*
- Documentation of attempts made by the PACE Organization to have appealing party correct any appeal request deficiency

### **8.4.1 THE MEDICARE MANAGED CARE DISMISSAL CASE FILE DATA FORM**

Every request from MAXIMUS Federal to a PACE Organization for a dismissal case file needs to be accompanied by the *Medicare PACE Dismissal Case File Data Form*. While similar to the *Appeal Background Data Form*, this form contains fewer and different data elements. The PACE Organization must designate a contact person on the *Medicare PACE Dismissal Case File Data Form*. PACE Organizations **must** also include the MAXIMUS Federal case number on this form. This case number will be provided to the PACE Organization on the faxed case file request form.

### **8.4.2 ACKNOWLEDGMENT LETTERS**

MAXIMUS Federal will not issue acknowledgment letters to either the appellant or the PACE Organization regarding dismissal review requests.

## **8.5 TIMEFRAMES FOR MAXIMUS FEDERAL REVIEW**

All dismissal review requests will be reviewed by MAXIMUS Federal in accordance with the timeframes applicable to the priority of the appeal. This means that for expedited dismissal reviews, MAXIMUS Federal will render its dismissal decision within 72 hours of receipt of the case file from the PACE Organization. For standard service (pre-service) dismissal review requests, decisions will be made within 30 days of receipt of the case file from the PACE Organization. For standard claim (payment) dismissal review requests, decisions will be made within 60 days of receipt of the case file from the PACE Organization.

If MAXIMUS Federal needs to request additional information from the PACE Organization in order to process the dismissal review, an extension of 14 days is permitted for expedited and standard service (pre-service) cases. No extensions are permitted for standard claim (payment) dismissal reviews.

## **8.6 DISMISSAL REVIEW DECISIONS ARE BINDING**

As per CMS guidance, MAXIMUS Federal' decisions regarding dismissal reviews are binding. No parties to the dismissal will have further appeal rights of the dismissal decision.

## 9. APPEAL DATA

MAXIMUS Federal extracts numerous data elements from submitted appeal case files and provides reports to CMS based on the collected data. This Section discusses the related data systems and how the collected information is used within the reports. The topics addressed are:

- 9.1 Medicare Appeals System
- 9.2 PACE Organization Monitoring Reports
- 9.3 Using the MAXIMUS Federal Website to Track Timeliness and Effectuation

### 9.1 MEDICARE APPEALS SYSTEM

MAXIMUS Federal utilizes the Medicare Appeal System (MAS) to support administration of the appeal process. Data is obtained and entered to MAS from the following sources:

- CMS data systems, which provide participant and plan identifying information;
- *Appeal Background Data Form*, from which certain data fields completed by the PACE Organization are entered, as given, to MAS; and
- Adjudicator abstraction of information from other appeal case file documents.

In addition to providing data to MAXIMUS Federal for general program administration, MAS data is relevant to PACE Organization in the following ways:

- CMS obtains reports, based upon MAS data, to monitor certain aspects of PACE Organization compliance with appeal requirements.
- MAXIMUS Federal publishes Statistical Reports on the Project web site [www.medicareappeal.com](http://www.medicareappeal.com).

### 9.2 PACE ORGANIZATION MONITORING REPORTS

MAXIMUS Federal reports information to CMS related to:

- Timeliness of PACE Organization interdisciplinary team decision and appeal decision
- PACE Organization effectuation of IRE, ALJ, or Medicare Appeals Council overturned appeal determinations

It is important to note that MAXIMUS Federal provides the above reports to CMS Central and Regional Offices to advise those offices of *potential* non-compliance. CMS personnel determine how such reports should be used in discharge of their PACE Organization monitoring function. Typically, CMS personnel will contact the PACE Organization if a



significant issue (for example, outlier) or pattern appears to exist, and will provide the PACE Organization the opportunity to research the case(s) more thoroughly.

However, as will be explained below, the source of the reported compliance data is primarily the PACE Organization itself—specifically entries made to the *Appeal Background Data Form* by the PACE Organization. It is vital that the PACE Organization carefully and accurately complete this form.

#### *Timeliness of PACE Organization – Interdisciplinary Team decision and Appeal*

The *Appeal Background Data Form* (See Appendix) requires the PACE Organization to:

- Classify the case by priority (expedited, standard service, standard claim);
- Enter "date of receipt" and "date of completion" of the interdisciplinary team decision and PACE Organization appeal for all cases, including dismissals;
- Enter requests for expedited processing and related PACE Organization decisions; and
- Indicate if a 14-day extension was taken in the participant's interest.

This data is used to calculate the time interval within which the interdisciplinary team decision and appeal should occur, and compares this interval with the actual timeliness reported by the PACE Organization. A variety of reports that measure PACE Organization timeliness are available to CMS using these calculations. This set of reports relies upon the information exactly as given by the PACE Organization on the *Appeal Background Data Form*. Consequently, PACE Organization errors or omissions on this form will result in reporting of either missing data or cases outside of timeframe compliance.

In addition, MAXIMUS Federal Adjudicators compare the contents of the case file (for example, notices and correspondence) to the data reported by the PACE Organization on the *Appeal Background Data Form*. If the Adjudicator determines that an error or omission exists on the *Appeal Background Data Form*, this error or omission is, if possible, corrected and reported separately. MAXIMUS Federal uses this information to report "discrepancies" with respect to PACE Organization reported timeliness to CMS.

#### *Timeliness of Effectuation Compliance*

Using the PACE Organization's report of effectuation to MAXIMUS Federal, we report to CMS listings of cases without compliance notice and statistics on effectuation compliance.

## **9.3 USING THE MAXIMUS FEDERAL WEBSITE TO TRACK TIMELINESS AND EFFECTUATION**

MAXIMUS Federal is responsible for providing CMS with data in support of CMS Regional Office (RO) PACE Organization oversight activity. MAXIMUS Federal provides reports indicating cases where MAXIMUS Federal has not been notified of overturned cases requiring compliance effectuation. In order to allow PACE Organizations to proactively monitor the cases that they have sent to MAXIMUS Federal for processing, we have developed a website that allows PACE Organizations to access timeliness and compliance data in real time. The website is [www.medicareappeal.com](http://www.medicareappeal.com). The following sections will review the resources that are available on the website so that PACE Organizations can use the information throughout the year to monitor their own cases as well as report any discrepancies.

### **9.3.1 PACE ORGANIZATION TIMELINESS DATA**

PACE Organizations can access timeliness data from the [www.medicareappeal.com](http://www.medicareappeal.com) website by hovering over the 'Health Plans' tab at the top of the main interface page of the site. The drop-down menu that appears there will have a selection option called 'Search for Your Appeals Case.' Once selected, this tab gives PACE Organizations the option of searching for data for a particular contract number or case number. It also allows PACE Organizations to limit the search by either the date that MAXIMUS Federal received the case or the date that MAXIMUS Federal rendered its decision. Once the limiting information is entered into this search box, a list of results data will appear.

MAXIMUS Federal provides two different data elements to CMS to calculate timeliness. As mentioned above, after performing a search, a list of results data will appear. These case search results are divided into columns. The data columns used to report timeliness data to CMS are column 2 (IRE Request Received Date), column 4 (Plan Reported Recon Receipt Date), and column 5 (IRE Corrected Recon Receipt Date). Column 2 represents the date that MAXIMUS Federal receives the case file from the PACE Organization. Column 4 represents the date that the PACE Organization reports to MAXIMUS Federal on the *Appeal Background Data Form* that it received the valid appeal request from the appellant. Column 5, if filled in, is the date that, after going through the documentation in the case file, MAXIMUS Federal has determined is the actual appeal start date. Timeliness is based on the number of days between columns 2 and 4. If there is a date in column 5, then timeliness is based on the number of days between columns 2 and 5.

For example, for standard pre-service and retrospective (i.e., payment) cases, PACE Organizations have up to 30 calendar days to render their determination. In addition, for purposes of calculating timeliness, 5 days are allowed for mailing of standard pre-service and retrospective cases (see Section 5.2). Therefore, if columns 2 and 4 are more than 35 days apart, the case will be considered late. If there is a date in column 5, the case will be considered late if there are more than 35 days between columns 2 and 5.

The calculation works in exactly the same manner for expedited cases with the exception of the timeframe allowed. For expedited cases, the timeframe is 72 hours (or 3 days). However, due to the nature of expedited appeals, only one business day is allowed for mailing. PACE

Organizations are expected to submit expedited cases to MAXIMUS Federal via overnight mail. Please note because Sundays are not considered business days, for appeals where the mailing day would fall on a Sunday, an extra day is permitted for those cases to arrive.

For expedited cases, extensions are allowed for PACE Organizations to gather additional information. If the PACE Organization has alerted MAXIMUS Federal via the *Appeal Background Data* Form that they have taken an extension, it will be noted in column 6. A ‘Y’ finding in this column will allow for an additional 14 days for expedited cases. Therefore, for expedited cases where there was an extension taken, there should be no more than 17 days between columns 2 and 4.3

### **9.3.2 PACE ORGANIZATION EFFECTUATION DATA**

The [www.medicareappeal.com](http://www.medicareappeal.com) website can also be used by PACE Organizations to monitor effectuation and compliance. The method of performing a search for this data on the website is very similar to the method used for seeing timeliness data. From the main interface page of the website, PACE Organizations can hover over the ‘Health Plans’ tab at the top of the page. A drop down menu will appear, with a selection entitled ‘Search Effectuation Data.’ This selection allows PACE Organizations to monitor which of their cases have been overturned or partially overturned and to determine if MAXIMUS Federal has received PACE Organization compliance information. As with timeliness data, PACE Organizations can limit the search by contract number, case number, or date. Once search criteria are entered, a results data list will appear.

This data listing advises PACE Organizations what the MAXIMUS Federal decision was and if notice of their compliance with that decision has been received. PACE Organizations can check this data daily (it is updated daily) if they are waiting to see if MAXIMUS Federal has received compliance information. In addition, PACE Organizations can monitor those cases where MAXIMUS Federal has not noted a compliance was received.

### **9.3.3 DATA DISCREPANCIES**

If a PACE Organization notices that there is no compliance data entered for a case where they have sent compliance information to MAXIMUS Federal, or that timeliness data listed on the website appears to be inaccurate, MAXIMUS Federal can investigate that discrepancy. With either the timeliness or effectuation data, if a PACE Organization has a question about a data element or wants to report a discrepancy, they can send an email to the email box linked under the ‘Contact Us’ tab in the upper right hand corner of the website. This email box is continuously monitored and questions are answered promptly.