

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES Office of Medicare Hearings and Appeals

# WITHDRAWAL OF WAIVER OF RIGHT TO AN ADMINISTRATIVE LAW JUDGE (ALJ) HEARING

**Instructions:** If you are a party to the appeal who previously waived your right to a hearing before an Administrative Law Judge (ALJ) with the Office of Medicare Hearings and Appeals (OMHA) and requested that a decision be made based on the record, but you have now changed your mind, you may withdraw your waiver if a notice of decision or other dispositive order has not yet been issued by an ALJ or attorney adjudicator. However, if a hearing has already been conducted, the ALJ may decide not to hold another one.

To withdraw your prior waiver, complete this form and send it to the assigned OMHA adjudicator (visit <u>www.hhs.gov/omha</u> and use the appeal status lookup tool to find your assigned adjudicator). If an adjudicator has not yet been assigned, send this form to OMHA Central Operations, Attention: Waiver Mail Stop (visit <u>www.hhs.gov/omha</u> or call the number at the bottom of this form for the full mailing address).

Please note that even if you withdraw your waiver of the right to an ALJ hearing, an ALJ or attorney adjudicator may still decide your appeal without a hearing under certain circumstances set forth in 42 C.F.R. sections 405.1038 and 423.2038 (for example, 42 C.F.R. section 405.1038(a) provides that a decision may be issued without a hearing when the evidence in the administrative record supports a finding fully in favor of the appellant(s) on every issue and no other party to the appeal is liable for the claim(s) at issue). If it is determined that your appeal cannot be decided without a hearing and it was previously assigned to an attorney adjudicator, it will be reassigned to an ALJ to conduct a hearing.

Section 1: What is the OMHA appeal n	umber or the reconsideration (Medicare) appeal or	case number?	
OMHA Appeal Number (if known)	Reconsideration Number ( <i>if OMHA appeal number not known</i> )		
Section 2: What is the information for	the party withdrawing the waiver? (Representative i	information in next section)	
Name (First, Middle initial, Last)	Firm or Organization ( <i>if applicable</i> )	Telephone Number	
Section 3: What is the representative's	s information? (Skip if you do not have a representation	ve)	
Name	Firm or Organization ( <i>if applicable</i> )	Telephone Number	
Section 4. Discos asknowledge the fol	lowing by signing and dating this form		

#### Section 4: Please acknowledge the following by signing and dating this form:

I want to withdraw my previous waiver of my right to have a hearing before an ALJ. I understand that the ALJ or attorney adjudicator assigned to adjudicate my appeal will not honor my withdrawal if a notice of decision or other dispositive order has already been issued in my appeal. If my appeal was assigned to an attorney adjudicator and a hearing is necessary, the appeal will be reassigned to an ALJ. I further understand that an ALJ may extend any applicable time frame to decide the appeal if necessary to schedule and hold a hearing, and I agree to any such extension.

Party or Representative Signature	Date

### **Privacy Act Statement**

The legal authority for the collection of information on this form is authorized by the Social Security Act (section 1155 of Title XI and sections 1852(g)(5), 1860D-4(h)(1), 1869(b)(1), and 1876 of Title XVIII). The information provided will be used to further document your appeal. Submission of the information requested on this form is voluntary, but failure to provide all or any part of the requested information may affect the determination of your appeal. Information you furnish on this form may be disclosed by the Office of Medicare Hearings and Appeals to another person or governmental agency only with respect to the Medicare Program and to comply with Federal laws requiring the disclosure of information between the Department of Health and Human Services and other agencies.

## If you need large print or assistance, please call 1-855-556-8475