

Department of Health and
Human Services
Administrative Law Judge
Appointment Process
Under the Excepted Service

November 29, 2018

**U.S. Department of Health and Human Services
Administrative Law Judge Appointment Process
Departmental Appeals Board
Office of Medicare Hearings and Appeals**

1. Public Notice

All Administrative Law Judge (ALJ) positions will be announced via the Office of Personnel Management's USA Jobs. Agencies may supplement recruitment/public notice efforts by posting the announcement to their websites, by providing a copy of the USA Jobs announcement and/or a link to the announcement to external sources (e.g., law schools, list serves, etc.), and by similar mechanisms.

2. Application Process

All ALJ applicants must apply through USA Jobs. Application packages not submitted through USA Jobs will not be accepted. Applicants are required to create a USA Jobs profile and upload/submit a resume, proof of bar membership, a statement of interest and writing samples. Applicants will be required to respond to a limited number of questions regarding qualifying and desired experience, skills, and qualifications.

3. Qualification Requirements

Applicants must meet both the licensure and experience requirements to be eligible for an HHS ALJ position. In addition to mandatory qualifications, applicants will be required to address, and provide evidence of, desired skills and experience as a means to allow recommending officials to identify top candidates.

Licensure

Throughout the selection process, applicants must be licensed and authorized to practice law under the laws of a State, the District of Columbia, the Commonwealth of Puerto Rico, or any territorial court established under the United States Constitution. Judicial status is acceptable in lieu of "active" status in States that prohibit sitting judges from maintaining "active" status to practice law. Being in "good standing" is acceptable in lieu of "active" status in States where the licensing authority considers "good standing" as having a current license to practice law.

Experience

Qualifying Experience

Applicants must have a full seven (7) years of experience as a licensed attorney that includes experience preparing for, participating in, and/or reviewing formal hearings as defined below or trials involving litigation and/or administrative law at the Federal, State or local level.

Formal hearings are defined as proceedings conducted on the record under procedures at least as formal as those prescribed by the Administrative Procedure Act, 5 U.S.C. §§ 553 through 559.

Qualifying litigation experience involves cases in which a complaint was filed with a court, or a charging document (e.g., indictment or information) was issued by a court, a grand jury, or appropriate military authority, and includes:

- Participating in settlement or plea negotiations in advance of trial;
- Preparing for trial and/or trial of cases;
- Preparing opinions;
- Hearing cases;
- Participating in or conducting arbitration, mediation, or other alternative dispute resolution approved by the court; or
- Participating in appeals conducted on the record under procedures at least as formal as those prescribed by the Administrative Procedure Act, 5 U.S.C. §§ 553 through 559.

Qualifying administrative law experience involves cases in which a formal procedure was initiated by a governmental administrative body or a private organization or individual and includes:

- Participating in settlement negotiations in advance of hearing cases;
- Preparing for hearing and/or trial of cases;
- Preparing opinions;
- Hearing cases;
- Participating in or conducting arbitration, mediation, or other alternative dispute resolution approved by the administrative body; or
- Participating in appeals related to the types of cases above.

Non-qualifying Experience

Experience involving cases with no formal hearing procedures and uncontested cases involving misdemeanors, probate, domestic relations, or similar uncontested proceedings is not qualifying.

4. Desired Skills and Experience

Departmental Appeals Board (DAB) – Civil Remedies Division

- Demonstrated experience in adversarial litigation, especially multi-day proceedings.
- Excellence in legal writing involving complex legal issues and interpretation of statutory or regulatory language, demonstrated in unedited writing samples.
- Demonstrated team-building and leadership skills, particularly in working cooperatively with peers and in mentoring and developing attorneys.
- Demonstrated capacity to manage courtroom proceedings effectively and apply appropriate judicial temperament in dealing with parties and counsel.
- Experience with, and knowledge of, administrative and healthcare law.

- Familiarity with various technology solutions for case management, document production, and legal research, and willingness to adapt to changing technological environments.

Office of Medicare Hearings and Appeals (OMHA)

- Demonstrated litigation experience.
- Demonstrated knowledge of healthcare law.
- Demonstrated ability to adjudicate a high volume of cases ranging from simple disputes to highly complex contested cases in a timely manner.
- Demonstrated ability to understand, analyze, decide, and communicate difficult and complex technical, legal and factual issues.
- Demonstrated ability to communicate orally in a clear and precise manner, while exhibiting appropriate judicial temperament.
- Demonstrated ability to produce a comprehensive legally and technically defensible agency decision involving complex technical, legal and factual issues, written in a clear and precise manner. Writing samples required.
- Demonstrated ability to lead and supervise staff in an effective manner, in order to accomplish stated goals.

5. Issuance of the Certificate of Applicants

The servicing human resources center (HRC) will review application packages for completeness; incomplete application packages will not be accepted or further reviewed. The HRC will perform an administrative review and identify those applicants that meet the mandatory qualification requirements. The HRC will issue the certificate via USA Staffing to the recommending official. Applicants possessing desired qualifications will be listed at the top of the certificate. Recommending officials will be forwarded the names of all applicants who provided required documentation and meet the basic qualification requirements.

6. Selection Process

- DAB/OMHA leadership identifies appropriate applicant screening panels, which may include reviewers internal and external to DAB/OMHA.
- Writing samples that were submitted by applicants who meet the desired skills and experience requirements are reviewed by a writing instructor and/or a designated ALJ. A written assessment of each such applicant's writing samples is provided to the screening panel for consideration for interviews.
- The screening panel reviews applicants' packages, writing assessments and qualifications, and identifies and prepares a list of the best qualified candidates to interview.
- DAB/OMHA leadership identifies an interview panel, which may be different from the screening panel and may consist of internal and external interviewers.

- The interview panel conducts structured interviews with related but unstructured follow-up questions, and rates each candidate's performance during the interview.
- Interviewees may be required to participate in a proctored writing assignment.
- A second interview may be required at the discretion of the recommending official.
- Reference checks, online searches, criminal background searches, and bar membership searches are conducted.
- The entire candidate folder is reviewed by the interview panel and/or other designated official. The candidate's qualifications, as shown in the folder, are rated before being sent to the recommending official for review and selection and appointment recommendation.
- The recommending official reviews all rated candidates and makes a selection/appointment recommendation to the Secretary based upon the desirable skills/qualifications ratings, and experience of each candidate.
- Selection/appointment packages for recommended hires are forwarded to the Secretary. Selection/appointment packages include a cover memorandum, identifying the names of recommended selections/appointments, the certificate (list of candidates), copies of resumes for recommended selections/appointments, and an ALJ Appointment Affidavit.

7. Offer of Employment

All ALJ applicants are required to submit an OGE form 278, Public Financial Disclosure, and receive clearance from the HHS OGC Ethics Division before a final offer of employment is extended. Applicants must also submit OF-306, Declaration for Federal Employment, SF-85P, Questionnaire for Public Trust Positions, and provide fingerprints. All ALJ applicants must receive favorable personnel security adjudication before a final offer of employment is extended.