Office of Medicare Hearings and Appeals

DEPARTMENT OF HEALTH AND HUMAN SERVICES Office of the Secretary

Office of Medicare Hearings and Appeals
Office of the Chief Judge
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I am pleased to present the Office of Medicare Hearings and Appeals (OMHA's) Fiscal Year (FY) 2018 Congressional Justification. This budget request reflects OMHA's strong commitment to providing an independent forum for the fair and efficient adjudication of Medicare appeals for beneficiaries and other parties.

Since beginning operations in July 2005, OMHA has been committed to continuous improvement in the Medicare appeals process through responsible stewardship despite significant increases in workload. This commitment continues to inspire OMHA's mission. However, due to the overwhelming increase in new appeals particularly in FY 2013 and FY 2014, OMHA has been unable to resolve all incoming appeals in a timely manner, and a backlog of appeals awaiting resolution has developed. Because receipts have continued at a pace that is double OMHA's funded capacity of 92 adjudication teams, OMHA has been unable to issue Medicare decisions in 90 days as envisioned by statute. Until OMHA is funded to process incoming receipts on a timely basis, or it is enabled to bring additional flexibilities to the appeals process, processing times will continue to rise. As of February 28, 2017 average processing times for the agency had reached 1,051 days.

The FY 2018 budget positions OMHA to better handle its projected incoming receipts, thus halting the growth of the backlog of appeals awaiting decision at OMHA by:

- More than doubling its ALJ adjudicatory capacity from 92 to 198 ALJ teams;
- Adding Medicare Magistrate program, which provides an independent adjudication for the resolution of appeals having a lower amount in controversy without a hearing and at lower cost per claim than the current ALJ adjudication process;
- And providing for a modest increase in administrative actions to improve the Medicare appeals process, including the expansion of OMHA's settlement conference facilitation program and attorney adjudicator program.

The expansion of these initiatives combined with the dramatic increase in adjudication capacity in both the ALJ and Magistrate programs should allow OMHA to adjudicate its projected incoming workload for the first time in over seven years, thus halting the growth of the backlog of appeals pending at OMHA and allowing the department's administrative initiatives to begin its elimination.

Without these measures, OMHA will be unable to handle its projected incoming receipts and will be unable to make significant progress in resolving its backlog of pending appeals. As additional resources are made available, OMHA stands ready to implement its Adjudication Expansion Initiative to increase the issuance of dispositions and reduce the backlog of unheard appeals.

Despite the significant workload challenges facing the agency, OMHA leadership remains committed to OMHA's key priorities -- the timely adjudication of appeals, the maximizing of efficiency in utilization of human resources through technological improvements, and the enhancement of service to the public through quality improvement and enhanced customer service.

Nancy J. Griswold
Chief Administrative Law Judge

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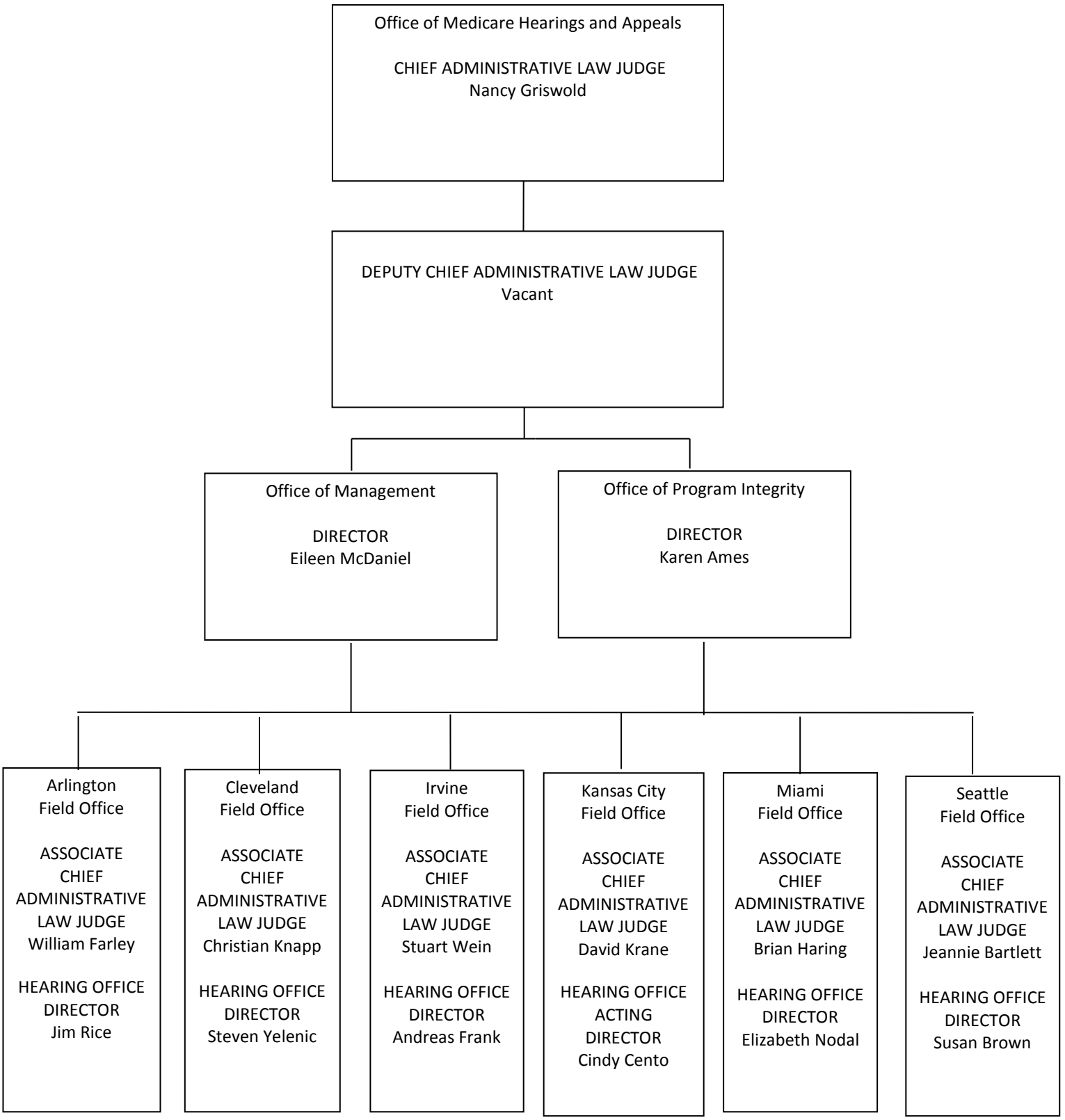
Organizational Chart



Organization Chart: Text Version

Office of Medicare Hearings and Appeals

- Chief Administrative Law Judge, Nancy Griswold
- Deputy Chief Administrative Law Judge, Vacant

The following offices report directly to the Chief Administrative Law Judge:

- Director, Office of Management
  - Eileen McDaniel
- Director, Office of Program Integrity
  - Karen Ames
- Arlington Field Office
  - Associate Chief Administrative Law Judge, William Farley
  - Hearing Office Director, Jim Rice
- Cleveland Field Office
  - Associate Chief Administrative Law Judge, Christian Knapp
  - Hearing Office Director, Steven Yelenic
- Irvine Field Office
  - Associate Chief Administrative Law Judge, Stuart Wein
  - Hearing Office Director, Andreas Frank
- Kansas City Field Office
  - Associate Chief Administrative Law Judge, David Krane
  - Hearing Office Director, Cindy Cento
- Miami Field Office
  - Associate Chief Administrative Law Judge, Brian Haring
  - Hearing Office Director, Elizabeth Nodal
- Seattle Field Office
  - Associate Chief Administrative Law Judge, Jeannie Bartlett
  - Hearing Office Director, Susan Brown

Introduction and Mission

The Office of Medicare Hearings and Appeals (OMHA), an agency of the U.S. Department of Health and Human Services (HHS), administers the third level of appeals nationwide for the Medicare program. OMHA ensures that Medicare beneficiaries, providers and suppliers have access to an independent forum and opportunity for a hearing conducted pursuant to the Administrative Procedures Act on disputed Medicare claims. By providing a timely and impartial review of Medicare appeals, OMHA encourages providers and suppliers to continue to provide services and supplies to Medicare beneficiaries. Such access to timely adjudication of disputes is essential to the integrity of the Medicare system. On behalf of the Secretary of HHS, the Administrative Law Judges (ALJs) within OMHA conduct impartial hearings and issue decisions on claims determinations appeals involving Medicare Parts A, B, C, D, as well as Medicare entitlement and eligibility appeals.

Mission

OMHA is a responsible forum for fair, credible and timely decision-making through an accomplished, innovative and resilient workforce. Each employee makes a difference by contributing to shaping American health care.

Vision

World class adjudication for the public good.

Statutory Decisional Timeframe

The Benefits Improvement and Protection Act of 2000 envisions that OMHA will issue decisions on disputed claims within 90 days after a request for hearing is filed.

Overview of Budget Request

The FY 2018 request for OMHA of $242,177,000 represents a $135,000,000 increase above the FY 2017 Annualized CR level of $107,177,000. The request includes $117,177,000 in discretionary budget authority, $125,000,000 in proposed mandatory funding, and a suite of legislative proposals to address the backlog of Medicare appeals and improve the Medicare appeals process. Overall, OMHA's budget request makes investments to support HHS Strategic Goals to Strengthen Healthcare and Ensure Efficiency, Transparency, Accountability and Effectiveness of HHS Programs. This will be accomplished by maximizing its organizational adjudicatory capacity to meet the needs of the public (i.e., Medicare beneficiaries, providers, suppliers and the tax-paying public).

The request positions OMHA to adjudicate more Medicare appeals than ever before by expanding the agency's capacity from 92 ALJ teams to up to 198 ALJ teams nationwide including establishing up to five new field offices. After gaining 6 to 12 months of experience, their collective adjudication capacity will increase OMHA's capacity by 106,000 additional dispositions per year. The additional funding also supports a Medicare Magistrate program which would address cases having a lower amount in controversy. This alternate adjudication method will further increase OMHA's appeals resolution capacity at a significantly lower cost per appeal than the existing ALJ hearing process. In addition, the FY 2018 request will position OMHA to expand its alternate adjudication pilots and administrative initiatives which aim to reduce the Medicare appeals backlog.

Overview of Performance

OMHA remains committed to continuous improvement in the Medicare appeals process by implementing initiatives to enhance the quality and timeliness of its services within its legislative authorities and funding levels. Through increased process efficiency and targeted addition of support staff, OMHA has streamlined its business process and has implemented a number of new initiatives to the maximum extent possible without sacrificing program integrity. Adjudication teams have more than doubled their productivity since 2009, with productivity hovering around the maximum sustainable level of approximately 1,000 appeals per ALJ team annually. However, as workloads have grown dramatically, it has become impossible for the agency to achieve its goals. Between 2010 and 2016, OMHA's appeals workload increased by 315%. Four primary drivers of the increase in volume include increases in the number of beneficiaries; updates and changes to Medicare and Medicaid coverage and payment rules; growth in appeals from Medicaid State Agencies; and national implementation of the Medicare Fee-for-Service Recovery Audit (RA) Program.

The dramatic increase in appeals has had a predictably detrimental impact on the agency's performance and resulted in a current backlog of over 650,000 pending Level 3 appeals. Although departmental initiatives, including the Centers for Medicare & Medicaid Services (CMS) Part A Settlements, have improved OMHA's pending appeals number in the short term (from 900,000 appeals at the beginning of 2016), the largest initiatives have resulted in one-time reductions of OMHA's pending workload and will not have a lasting impact until funded capacity exceeds projected appeal receipts. Furthermore, as long as cases are being added to the backlog of pending appeals**,** the average processing time will continue to grow. Indeed, with the exception of beneficiary appeals which are prioritized, OMHA has not been able to issue decisions in statutorily required 90 days for the Benefits Improvement and Protection Act 2000 (BIPA) appeals since 2010. The average processing time on closed workload in FY 2016 was 877 days and has risen to 1,051 days in FY 2017 (data as of February 28, 2017). The average age of pending appeals at OMHA has also risen at an alarming rate and measures 999 days (data as of February 28,2017), far above the 90 day adjudication time frame envisioned by BIPA, indicating that processing times will continue to increase until the backlog of pending appeals has been resolved.

Although adjudication delays at OMHA have impacted all categories of appellants, OMHA is able to continue its support of the HHS Strategic Goal 1 to Strengthen Health Care through the prioritization of appeals filed by beneficiaries. The average wait time to disposition for prioritized beneficiary appeals has decreased from 244 days in FY 2013 to 75 days for appeals filed in FY 2016. This processing time supports the conclusion that, when properly resourced, OMHA is able to resolve most pending appeals within the anticipated statutory timeframes.

OMHA also continues its support of Strategic Goal 4 to Ensure Efficiency, Transparency, Accountability and Effectiveness of HHS Programs. OMHA continues to evaluate its customer service through an independent evaluation that captures the scope of the Level III appeals experience by randomly surveying selected appellants and appellant representatives. Measure 1.5 aims to ensure appellants and related parties are satisfied with their Medicare appeals experience regardless of the outcome of their appeal. The measure is evaluated on a scale of 1 – 5, 1 representing the lowest score (very dissatisfied) and 5 representing the best score (very satisfied). In FY 2016, OMHA achieved a 3.9 level of overall appellant satisfaction nationwide, exceeding the FY 2016 target of 3.4. Despite the overall satisfaction level, the delays in adjudication have had a predictably detrimental impact on satisfaction scores as the appellants' frustration with the amount of time it takes for cases to be assigned to an

adjudicator continues to rise. Here, the appellants rated this part of the process only a 2.9 out of a possible 5, bringing down OMHA's satisfaction scores in other areas. Furthermore, the overall level of appellant satisfaction has declined from a high of 4.3 recorded in FY 2010 prior to increases in processing times resulting from the backlog of pending appeals.

In addition, OMHA organizes the Medicare Appellant Forum, an event designed to inform and educate the appellant community on the challenges related to the appeals backlog, and measures it can undertake to reduce inefficiencies in appeals processing. OMHA's Appellant Forums have included speakers from all levels of the appeals process and departmental leaders. A primary goal of this event has been to be as transparent as possible concerning the challenges faced by the appeals system and to keep appellants informed about current initiatives, pending pilots, demonstration projects, and evolving plans designed to address the workload at all levels of appeal. OMHA has conducted four forums (February 2014, October 2014, June 2015, and February 2016). OMHA plans to conduct another forum in FY 2017 in order to continue its commitment to keep stakeholders informed concerning new initiatives and the status of pending appeals.

All Purpose Table

(Dollars in Thousands)

Office of Medicare Hearings and Appeals	FY 2016 Final	FY 2017 Annualized CR	FY 2018 President's Budget Authority	FY 2018 +/- FY 2017
Discretionary Budget Authority	107,381	107,177	117,177	+10,000
Discretionary Budget Authority FTE	557	671	725	+54*
Proposed Mandatory Funding	0	0	125,000	+125,000
Proposed Mandatory Funding FTE	0	0	255	+255**
Program Level Funding	107,381	107,177	242,177	+135,000
Program Level FTE	557	671	980	+309

* Accounts for full impact of FY 2017 hires and 54 new positions (25 FTE in FY 2018)

** Accounts for 980 new positions (255 FTE in FY 2018); full impact of FY 2018 hires realized in subsequent fiscal years

Authorizing Legislation……..Titles XVIII and XI of the Social Security Act
FY 2018 Authorization……..Indefinite
Allocation Method……..Direct Federal

Appropriations Language

For expenses necessary for the Office of Medicare Hearings and Appeals, [$107,381,000] *$117,177,000* to be transferred in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund.

Amounts Available for Obligation

Detail	FY 2016 Final	FY 2017 Annualized CR	FY 2018 President's Budget Authority
Trust Fund Discretionary Appropriation	107,381,000	107,177,000	$117,177,000
Subtotal, adjusted trust fund annual appropriation	107,381,000	107,177,000	$117,177,000
Unobligated balance lapsing	934,892	-	-
Total Obligations	106,446,108	-	-

Summary of Changes

Budget Year and Type of Authority	Dollars	FTE
FY 2017 Annualized CR	107,177	671
FY 2018 President's Budget Authority	242,177	980
Net Change	+135,000	+309*

* Accounts for full impact of FY 2017 hires and 54 positions (25 FTE in FY 2018), accounts for 980 positions (255 FTE in FY 2018); full impact of FY 2018 hires realized in subsequent fiscal years

Increases	FY 2018 FTE	FY 2018 President's Budget Authority	FY 2018 +/- FY 2017 CR FTE	FY 2018 +/- FY 2017 CR BA
Full-time permanent	980	86,291	309	25,422
Other personnel compensation	-	875	-	235
Civilian personnel benefits	-	28,414	-	9,443
Travel and transportation of persons	-	555	-	405
Transportation of things	-	1,942	-	1,720
Rental Payments to GSA	-	11,244	-	2,667
Communications, utilities, and misc. charges	-	13,306	-	9,274
Printing and reproduction	-	278	-	76
Other services from non-Federal sources	-	27,262	-	23,661
Others goods and services from Federal sources	-	17,454	-	11,146
Operation and maintenance of facilities	-	38,254	-	37,620
Operation and maintenance of equipment	-	5,942	-	5,128
Supplies and materials	-	3,125	-	2,644
Equipment	-	7,235	-	5,559
Total Increases	-	242,177	-	135,000

Total Changes	FY 2018 FTE	FY 2018 President's Budget Authority	FY 2018 +/- FY 2017 CR FTE	FY 2018 +/- FY 2017 CR BA
Total Increases	980	242,177	+309	+135,000
Total Decreases	-	-	-	-
Total Net Change	980	242,177	+309	+135,000

Budget Authority by Activity - Direct

(Dollars in Thousands)

Activity	FY 2016 Final	FY 2017 Annualized CR	FY 2018 President's Budget Authority
Discretionary Budget Authority	107,381	107,177	117,177
Discretionary Budget Authority, FTE	**557**	**671**	**725**

Authorizing Legislation

(Dollars in Thousands)

OMHA	FY 2017 CR Amount Authorized	FY 2017 Annualized CR	FY 2018 Amount Authorized	FY 2018 President's Budget Authority
Office of Medicare Hearings and Appeals, Social Security Act, Titles XVIII and XI	Indefinite	107,177	Indefinite	$117,177
Total Appropriation	**-**	**107,177**	**-**	**$117,177**

Appropriation History Table

Details	Budget Estimates to Congress	House Allowance	Senate Allowance	Appropriations
2009	-	-	-	-
Trust Fund Appropriation	65,344,000	-	63,864,000	64,604,000
Subtotal	65,344,000	-	63,864,000	64,604,000
2010	-	-	-	-
Trust Fund Appropriation	71,147,000	71,147,000	71,147,000	71,147,000
Subtotal	71,147,000	71,147,000	71,147,000	71,147,000
2011	-	-	-	-
Trust Fund Appropriation	77,798,000	-	77,798,000	71,147,000
Rescissions (P.L. 112-10)	-	-	-	(142,000)
Subtotal	77,798,000	-	77,798,000	71,005,000
2012	-	-	-	-
Trust Fund Appropriation	81,019,000	71,147,000	71,147,000	72,147,000
Rescissions (P.L. 112-74)	-	-	-	(136,000)
Subtotal	81,019,000	71,147,000	71,147,000	72,011,000
2013	-	-	-	-
Trust Fund Appropriation	84,234,000		79,908,000	72,010,642
Rescissions (P.L. 113-6)	-	-	-	(144,021)
Sequestration (P.L. 112-25)	-	-	-	(3,622,567)
Transfers	-	-	-	1,200,000
Subtotal	84,234,000	-	79,908,000	69,444,054
2014	-	-	-	-
Trust Fund Appropriation	82,381,000	-	82,381,000	82,381,000
Subtotal	82,381,000	-	82,381,000	82,381,000
2015	-	-	-	-
Trust Fund Appropriation	100,000,000	-	-	87,381,000
Subtotal	100,000,000	-	-	87,381,000
2016	-	-	-	-
Trust Fund Appropriation	140,000,000	-	-	107,381,000
Subtotal	140,000,000	-	-	107,381,000
2017	-	-	-	-
Trust Fund Appropriation	120,000,000	107,381,000	112,381,000	117,177,000
Subtotal	120,000,000	107,381,000	112,381,000	117,177,000
2018	117,177,000	-	-	-
Subtotal	117,177,000	-	-	-

Narrative by Activity

Program Description and Accomplishments

OMHA opened its doors in July 2005 pursuant to the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) which sought to respond to the delays in processing of Medicare appeals that existed at the Social Security Administration (SSA) by establishing a forum dedicated solely to the adjudication of Medicare appeals. According to the Government Accountability Office (GAO), SSA ALJs took on average 368 days to resolve appeals in 2003. While SSA had no statutory timeframe for case adjudication, the Benefits Improvement and Protection Act (BIPA) envisioned that most Medicare appeals would be decided by OMHA within 90 days of filing at OMHA. Furthermore, the MMA provided for the addition of ALJs and staff as needed to insure for the "timely action on appeals before administrative law judges," (MMA § 931(c), 117 Stat. 2398-99). However, since 2010, OMHA has lacked sufficient funding to handle the volume of appeals being received and has developed a backlog of appeals awaiting disposition.

OMHA serves a broad sector of the public, including Medicare service providers and suppliers and Medicare beneficiaries who are often elderly and/or disabled. Ensuring that providers and suppliers have a forum for independent and timely resolution of their disputes over Medicare payments also contributes to the security of the Medicare system by encouraging the provider and supplier community to continue to provide services and supplies to Medicare beneficiaries. OMHA administers its program in six field offices, including Miami, Florida; Cleveland, Ohio; Irvine, California; Arlington, Virginia; Kansas City, Missouri; and the recently established office in Seattle, Washington.

At the time of OMHA's establishment, it was envisioned that OMHA would receive a traditional Medicare Part A and Part B workload. However, OMHA has seen an increased caseload due to the expansion of its original jurisdiction to include areas not originally envisioned to be within its authority. Specifically, in 2006, OMHA began hearing appeals arising from the new Medicare Part D Prescription Drug Plan. In 2007, OMHA was also given additional responsibility for conducting hearings and issuing decisions in Medicare Part B Income-Related Monthly Adjustment Amount (IRMAA) appeals.

OMHA also began receiving new cases as a result of the CMS Recovery Audit (RA) program, which was piloted in 6 states beginning in 2007. This program included RA reviews of Medicare Part A and Part B claims on a post-payment basis, and reviews for Medicare Secondary Payer recoupments. In January 2010, the RA program became permanent and was expanded to all 50 States. As a result of this expansion, OMHA received nearly 433,000 RA appeals between FY 2013 and FY 2014, fifty percent of the total agency appeal receipts. The number of FY 2015 and FY 2016 RA appeals declined due to the pause in the program while contracts were being re-competed. Although the RA expansion legislation provided funding for the administrative costs of the program at CMS, OMHA's administrative costs were not included in the legislation.

Not only has the expansion of appeals from the RA workload exacerbated OMHA's workload challenges, but OMHA's non-RA (traditional) workload also increased significantly. Between FY 2013 and FY 2014 OMHA also received 380,000 non-RA appeals as CMS contractors, (for example Medicare Administrative Contractors and Zone Program Integrity Contractors) increased pre- and post-payment reviews. Recognizing the importance of timely resolution of Medicare disputes, OMHA has undertaken a number of initiatives focused on improving the quality and timeliness of its services. These include:

- Prioritization of beneficiary appeals to optimize timely adjudication of beneficiary appeals
- The development of OMHA's Electronic Case Processing Environment (ECAPE) – March 2017 successful test and roll out to the agency's Central Operations Intake and Case Assignment Division
- An OMHA Case Policy Manual (OCPM) Initiative to develop OMHA-wide common business practices for the adjudicative process
- A National Substantive Legal Training Program for new Administrative Law Judges and attorneys
- A Statistical Sampling Pilot to resolve large groups of appeals
- A Settlement Conference Facilitation pilot as a less costly alternative to ALJ hearings
- A Senior Attorney screening program to assist with identification and resolution of appeals which can be resolved without a hearing
- A revision to governing regulations (effective on March 20, 2017) which expanded OMHA's ability to process level 3 appeals by authorizing attorney adjudicators to decide appeals that can be resolved without a hearing before an ALJ, adopted a number of processing efficiencies at OMHA, and resolved many areas of confusion among stakeholders.

Funding History

Fiscal Year	Amount
FY 2013	$69,444,054
FY 2014	$82,381,000
FY 2015	$87,381,000
FY 2016	$107,381,000
FY 2017 Annualized CR	$107,177,000

FY 2018 Budget Request

The FY 2018 request for OMHA of $242,177,000 represents a $135,000,000 increase above the FY 2017 Annualized CR level of $107,177,000. The request includes $117,177,000 in budget authority, $125,000,000 in proposed mandatory funding, and a legislative package to address the backlog of Medicare appeals and improve the Medicare appeals process. The requested funding will allow OMHA to more than double its adjudication capacity and to implement Department-approved initiatives designed to reduce the backlog, improve processing time, reduce overall costs, and narrow the gap between yearly appeals receipts and resources.

Between FY 2010 and FY 2016 the agency's workload increased by 315%. OMHA experienced its most significant challenges during FY 2013 and FY 2014. Although OMHA's appeal receipts grew by 228% (from 117,000 appeals in FY 2012 to 384,000 appeals in FY 2013) in FY 2013, funding levels decreased by

4% from the prior year. In 2014, OMHA received a record 474,000 new appeals and struggled with fairly stagnant funding levels during the year. During each subsequent year, receipts have dropped slightly, but have continued to outpace OMHA's funded adjudication capacity. Thus, OMHA has been unable to recover from the backlogs developed in 2013 and 2014, or to keep up with incoming receipt levels. Despite the recent decline in FY 2015 and FY 2016 receipts, due to the temporary pause in the RA program, OMHA still has seven years' worth of work for its ALJs. Since approximately 98% of OMHA's budget is dedicated to fixed operational costs, OMHA is currently unable to expand its staff to adequately address its pending workload or incoming receipt levels without additional resources. The FY 2018 President's Budget request will increase adjudication capacity and help support critical initiatives and operational investments intended to reduce the backlog and improve the Medicare appeals process including:

Adjudication Expansion Initiative (AEI)

Despite agency-wide initiatives to streamline business processes, workload demands upon OMHA's ALJs have exceeded their sustainable capacity for case adjudication. This initiative will allow OMHA to increase its staffing levels above its planned FY 2017 level by up to 819 positions. These 819 new positions will be brought on incrementally during FY 2018 equating to 225 FTE (25 FTE from discretionary increases and 200 FTE from proposed mandatory funding increases) in FY 2018. The full impact of the additional positions will be realized in subsequent fiscal years. These additional resources will support up to five new field offices, the full expansion of the Seattle and Arlington field offices, and the augmentation of Headquarters operations necessary to support the expanded administrative, training, oversight and quality assurance requirements associated with the expansion. The additional resources include up to 106 new ALJ teams nationwide above the agency's current 92 teams. Once these new teams have been trained and have become fully productive, their collective adjudication will increase OMHA's output by 106,000 additional dispositions per year (a 115% increase in adjudicatory capacity). This strategy will enable OMHA to expedite backlog reduction efforts and improve adjudication timeframes, while increasing staff towards a level that can address projected future receipts. The full impact of these additional ALJ teams will be realized in FY 2019 when the teams reach their full annual adjudication capacity.

In addition, OMHA will invest in the hiring additional senior attorneys to support its administrative initiatives to address the pending workload. For example, the agency's settlement conference facilitation program for interested appellants having multiple claims pending at OMHA was established in June 2014. OMHA has been encouraged by the results of the pilot program, which has resolved 10,383 appeals or the equivalent of one year of work for 10 ALJ teams (data as of February 28), and anticipates incorporating the program into its business model on a permanent basis. Although the administrative efforts are beneficial, they are insufficient to fully reduce the pending workload or manage new incoming receipts. The U. S. Government Accountability Office (GAO) has concurred that, despite these HHS actions, "the Medicare appeals backlog continues to grow at a rate that outpaces the adjudication process and will likely persist". A summary of all GAO findings and recommendations, and a copy of the report are available through the GAO website at http://www.gao.gov/products/GAO-16-366.

Medicare Magistrate Program

A portion of claims and coverage determinations appealed to OMHA involve an amount in controversy (AIC), or amount in dispute, that is far below the cost to adjudicate the claim. Therefore, OMHA has

sought authority through a legislative proposal in the FY 2018 Budget for a Medicare Magistrate program in which senior attorneys would serve as independent adjudicators with binding decisional authority in cases with an AIC below the District Court judicial review threshold.

Magistrates would adjudicate appeals based on a review of the record (in place of a hearing), allowing OMHA's ALJs to review appeals in which a hearing are necessary, and resulting in a significant reduction in the overall time and cost of adjudications. This initiative is an ideal model to better align and maximize the agency's most costly resource (ALJs) with workload demand.

The FY 2018 request will allow OMHA to staff 219 magistrate and support positions which will be brought on incrementally during FY 2018 and equating to 55 FTE. The full impact of the additional positions will be realized in subsequent fiscal years. OMHA estimates these additional resources would further increase adjudication capacity an estimated 75,000 appeals annually at a savings of 43% compared to an ALJ team.

Proposed Law – Improving the Medicare Appeals Process

The Budget also includes the following legislative proposals to improve the Medicare appeals process.

Provide Additional Resources for Medicare Appeals: This proposal would provide the Office of Medicare Hearings and Appeals (OMHA) and the Departmental Appeals Board (DAB) mandatory funding to address the backlog of pending appeals. The Secretary would be authorized to transfer funding across all levels of the appeals system.

Remand Appeals to the Redetermination Level with the Introduction of New Evidence: This proposal would remand an appeal to the first level of appeal when new documentary evidence is submitted into the administrative record at the second level of appeal or above. Exceptions may be made if evidence was provided to the lower level adjudicator but erroneously omitted from the record, or an adjudicator denies an appeal on a new and different basis than earlier determinations. This proposal incentivizes appellants to include all evidence early in the appeals process and ensures the same record is reviewed and considered at subsequent levels of appeal.

Increase Minimum Amount in Controversy for Administrative Law Judge Adjudication of Claims to Equal Amount Required for Judicial Review: This proposal increases the minimum amount in controversy required for adjudication by an Administrative Law Judge to the Federal District Court amount in controversy requirement ($1,560 in calendar year 2017 and updated annually). This will allow the amount at issue to better align with the amount spent to adjudicate the claim. Appeals not reaching the minimum amount in controversy will be adjudicated by a Medicare magistrate. The minimum amount in controversy will increase consistency with the amount in controversy set for Federal court.

Establish Magistrate Adjudication for Claims with Amount in Controversy Below New Administrative Law Judge Amount in Controversy Threshold: This proposal allows the Office of Medicare Hearings and Appeals to use Medicare magistrates for appealed claims below the Federal District Court amount in controversy threshold ($1,560 in calendar year 2017 and updated annually), reserving Administrative Law Judges for more complex and higher amount in controversy appeals.

Expedite Procedures for Claims with No Material Fact in Dispute: This proposal allows the Office of Medicare Hearings and Appeals to issue decisions without holding a hearing if there is no material fact in dispute. These cases include appeals, for example, in which Medicare does not cover the cost of a

particular drug or the Administrative Law Judge cannot find in favor of an appellant due to binding limits on authority.

Summary

The additional funding and legislative proposals proposed in the FY 2018 budget request is crucial for OMHA to make significant strides in reducing the backlog and narrowing the gap between incoming receipts and resources. It is clear that OMHA will not be able to slow the growth of the backlog until its funded adjudication capacity exceeds its projected receipt levels. For example, recent estimates project that incoming receipts may approach 200,000 by the end of FY 2018. This incoming appeals forecast demonstrates that at the current FY 2017 Annualized funding level of $107,177,000 OMHA will be funded to handle only 50% of its workload needs, let alone reduce the backlog of pending appeals. Furthermore, because the impact of many of the Department's settlement initiatives was realized in FY 2016 and FY 2017, HHS estimates that the number of pending appeals at OMHA will remain at the current level of more than 650,000 at the end of FY 2018.

Outputs and Outcomes Table

Program/Measure	Year and Most Recent Result / Target for Recent Result / (Summary of Result)	FY 2017 Target	FY 2018 Target	FY 2018 Target +/- FY 2017 Target
Reduce the percentage of decisions reversed or remanded on appeals to the Medicare Appeals Council	FY 2016: 0.7% Target: 1.0% (Target Exceeded)	1.0%	1.0%	Retain
Retain average results from appellants reporting good customer service on a scale of 1-5 at the Medicare Appeals level	FY 2016: 3.9% Target: 3.4% (Target Exceeded)	3.4	3.4	Retain

FY 2018 Budget by HHS Strategic Objective

HHS Strategic Goals	FY 2018 President's Budget Auth.
1.Streghten Health Care	**161.29**
1.A Make coverage more secure for those who have insurance, and extend affordable coverage to the uninsured	-
1.B Improve health care quality and patient safety	161.29
1.C Emphasize primary and preventive care, linked with community prevention services	-
1.D Reduce the growth of health care costs while promoting high-value, effective care	-
1.E Ensure access to quality, culturally competent care, including long-term services and supports, for vulnerable populations	-
1.F Improve health care and population health through meaningful use of health information technology	-
2. Advance Scientific Knowledge and Innovation	**-**
2.A Accelerate the process of scientific discovery to improve health	-
2.B Foster and apply innovative solutions to health, public health, and human services challenges	-
2.C Advance the regulatory sciences to enhance food safety, improve medical product development, and support tobacco regulation	-
2.D Increase our understanding of what works in public health and human services practice	-
2.E Improve laboratory, surveillance and epidemiology capacity	-
3. Advance the Health, Safety, and Well-Being of the American People	**-**
3.A Promote the safety, well-being, resilience, and healthy development of children and youth	-
3.B Promote economic and social well-being for individuals, families, and communities	-
3.C Improve the accessibility and quality of supportive services for people with disabilities and older adults	-
3.D Promote prevention and wellness across the life span	-
3.E Reduce the occurrence of infectious diseases	-
3.F Protect Americans' health and safety during emergencies, and foster resilience to withstand and respond to emergencies	-
4.Ensure Efficiency, Transparency, Accountability and Effectiveness of HHS Programs	**80.88**
4.A Strengthen program integrity and responsible stewardship by reducing improper payments, fighting fraud, and integrating financial, performance, and risk management	80.88
4.B Enhance access to and use of data to improve HHS programs and to support improvements in the health and well-being of the American people	-
4.C Invest in the HHS workforce to help meet America's health and human services needs	-
4.D Improve HHS environmental, energy, and economic performance to promote sustainability	-
TOTAL	**242.17**

Budget Authority by Object Class

(Dollars in Thousands)

Object Class Code	Description	FY 2017 Annualized CR	FY 2018 President's Budget Authority	FY 2018 +/- FY 2017
11.1	Full-time permanent	60,869	86,291	25,422
11.5	Other personnel compensation	640	875	235
Subtotal	***Personnel Compensation***	61,509	87,166	25,657
12.1	Civilian personnel benefits	18,971	28,414	9,443
Total	***Pay Costs***	80,480	115,580	35,100
21.0	Travel and transportation of persons	150	555	405
22.0	Transportation of things	222	1,942	1,720
23.1	Rental payments to GSA	8,577	11,244	2,667
23.3	Communications, utilities, and misc. charges	4,032	13,306	9,274
24.0	Printing and reproduction	202	278	76
25.2	Other services from non-Federal sources	3,601	27,262	23,661
25.3	Other goods and services from Federal sources	6,308	17,454	11,146
25.4	Operation and maintenance of facilities	634	38,254	37,620
25.7	Operation and maintenance of equipment	814	5,942	5,128
26.0	Supplies and materials	481	3,125	2,644
31.0	Equipment	1,676	7,235	5,559
Total	***Non-Pay Costs***	26,697	126,597	99,900
Total	***Budget Authority by Object Class***	**107,177**	**242,177**	**135,000**

Salaries and Expenses

(Dollars in Thousands)

Object Class Code	Description	FY 2017 Annualized CR	FY 2018 President's Budget Authority	FY 2018 +/- FY 2017
11.1	Full-time permanent	60,869	86,291	25,422
11.5	Other personnel compensation	640	875	235
Subtotal	***Personnel Compensation***	61,509	87,166	25,657
12.1	Civilian personnel benefits	18,971	28,414	9,443
Total	***Pay Costs***	80,480	115,580	35,100
21.0	Travel and transportation of persons	150	555	405
22.0	Transportation of things	222	1,942	1,720
23.3	Communications, utilities, and misc. charges	4,032	13,306	9,274
24.0	Printing and reproduction	202	278	76
25.2	Other services from non-Federal sources	3,601	27,262	23,661
25.3	Other goods and services from Federal sources	6,308	17,454	11,146
25.4	Operation and maintenance of facilities	634	38,254	37,620
25.7	Operation and maintenance of equipment	814	5,942	5,128
Subtotal	***Other Contractual Services***	15,963	104,993	89,030
26.0	Supplies and materials	481	3,125	2,644
Subtotal	***Non-Pay Costs***	16,444	108,118	91,674
Total	***Salary and Expenses***	96,924	223,698	126,774
23.1	Rental payments to GSA	8,577	11,244	2,667
Total	***Salaries, Expenses, and Rent***	105,501	234,942	129,441
Total	***Direct FTE***	**671**	**980**	**309**

Detail of Full Time Equivalents

Detail	FY 2016 Final Civilian	FY 2016 Final Military	FY 2016 Final Total	FY 2017 Estimate Civilian	FY 2017 Estimate Military	FY 2017 Estimate Total	FY 2018 Estimate Civilian	FY 2018 Estimate Military	FY 2018 Estimate Total
Direct	557	0	557	671	0	671	980	0	980
Reimbursable	0	0	0	0	0	0	0	0	0
Total FTE	**557**	**0**	**557**	**671**	**0**	**671**	**980**	**0**	**980**

Fiscal Year	Average GS
FY 2014	11/4
FY 2015	11/5
FY 2016	11/5
FY 2017	11/5
FY 2018	9/1

Detail of Positions

Detail	FY 2016 Final	FY 2017 Annualized CR	FY 2018 President's Budget Authority
ALJ I	1	1	1
ALJ II	7	7	12
ALJ III	86	86	187
Subtotal	94	94	200
Total – ALJ Salaries	15,057,491	14,551,178	30,691,010
ES	3	3	4
Total - ES Salaries	504,275	510,828	697,793
GS-15	19	18	36
GS-14	32	36	152
GS-13	46	59	115
GS-12	132	149	169
GS-11	61	64	83
GS-10	-	-	-
GS-9	32	53	351
GS-8	91	113	272
GS-7	23	61	69
GS-6	39	43	252
GS-5	11	25	40
GS-4	8	7	20
GS-3	-	-	-
GS-2	-	-	-
GS-1	-	-	-
Subtotal	494	628	1,559
Total - GS Salary	30,919,239	45,807,387	80,343,197
Total Positions	591	725	1,763
Total FTE	557	671	980
Average ALJ Salary	160,186	154,800	153,455
Average ES salary	168,091	170,276	174,448
Average GS grade	11/5	11/5	9/1
Average GS Salary	**62,590**	**72,941**	**51,535**