

## Office of Medicare Hearings and Appeals Settlement Conference Facilitation Pilot FACT SHEET

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***Participant submitted questions from the SCF Open Door Call begin on page 9 of this document.***

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### ***What is Settlement Conference Facilitation?***

Settlement Conference Facilitation (SCF) is a pilot alternative dispute resolution process designed to bring the appellant and the Centers for Medicare & Medicaid Services (CMS) together to discuss the potential of a mutually agreeable resolution to the claims appealed to the Administrative Law Judge (ALJ) hearing level of the Medicare claims appeals process. If a resolution is reached, a settlement document is drafted to reflect the agreement. The document is signed by the appellant and CMS at the settlement conference session. As part of the agreement, the requests for an ALJ hearing for the claims covered by the settlement will be dismissed.

The facilitator uses mediation principles to assist the appellant and CMS in working toward a mutually agreeable resolution. The facilitator does not make official determinations on the merits of the claims at issue and does not serve as a fact finder, but may help the appellant and CMS see the relative strengths and weaknesses of their positions. The facilitator is an employee of the Office of Medicare Hearings and Appeals (OMHA), which is a component of the Department of Health and Human Services (HHS) Office of the Secretary, and is organizationally and functionally separate from CMS.

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### ***Which Medicare Part A appealed claims are eligible for the Settlement Conference Facilitation process?***

- The appellant must be a Medicare provider (for the purposes of this pilot, “appellant” is defined as a Medicare provider that has been assigned a National Provider Identifier (NPI) number);
  - NOTE: All Part A provider types are eligible to request participation in the OMHA SCF Pilot. This includes acute care hospitals; **however, claims that were eligible for the CMS Part A Hospital Appeals Settlement option are ineligible for the OMHA SCF Pilot regardless of actual provider participation in the settlement process with CMS.**
- A request for hearing must appeal a Medicare Part A Qualified Independent Contractor (QIC) reconsideration decision;
- The beneficiary must not have been found liable after the initial determination or participated in the QIC reconsideration;
- All jurisdictional requirements for a hearing before an Administrative Law Judge must be met for the request for hearing on all appealed claims;
- The request for hearing must not be scheduled for an Administrative Law Judge hearing;
- The request for hearing must have been filed on or before December 31, 2015;
- The amount of each individual claim must be \$100,000 or less (for the purposes of an extrapolated statistical sample, the overpayment amount extrapolated from the universe of claims must be \$100,000 or less);
- At least 50 claims must be at issue **and** at least \$20,000 must be in controversy;
- There cannot be an outstanding request for OMHA statistical sampling for the same claims;
- The request must include all of the appellant’s pending appeals for the same item or service at issue that meet the SCF criteria. For example, if an appellant has 50 hospice appeals pending that

meet the requirements above, the appellant must submit a request for SCF for all 50 hospice appeals.

- Appellants may not request SCF for some but not all of the services included in a single appeal. For example, if an individual appeal has at issue 10 hospice claims, an appellant may not request that 3 hospice claims go to SCF, but the remaining claims go to hearing.
- The appellant has not filed for bankruptcy and/or does not expect to file for bankruptcy in the future;
- The claims at issue are covered under Medicare Part A law and policy (Skilled Nursing Facility (SNF); outpatient claims are covered under Medicare Part B. Providers interested in mediation of SNF claims under Part B should file an OMHA Medicare Part B SCF *Expression of Interest*); and
- The appellant has received an Office of Medicare Hearings and Appeals *Settlement Conference Facilitation Preliminary Notification* stating that the appellant may request SCF for the claims identified in the SCF spreadsheet. An appellant may not formally request a settlement conference until receiving this notice, but an appellant can initiate the process by filing its expression of interest.

Requests for review of QIC dismissals are not eligible for the SCF process. Beneficiary-initiated appeals of QIC reconsiderations are not included in this pilot because those appeals are being prioritized for a hearing before an Administrative Law Judge. Appeals arising from Medicare Part C, Medicare Part D, and appeals of Social Security Administration decisions regarding entitlement, Part B late enrollment penalties, and Part B and Part D income related monthly adjustment amounts (IRMAAs) are not eligible for the SCF process at this time.

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***I am an acute care hospital that has appeals that were eligible for the CMS Hospital Settlement; however, my hospital decided not to participate in that settlement. Can I now attempt a settlement of these claims through the Settlement Conference Facilitation process?***

Claims that were eligible for settlement through the CMS Part A Hospital Appeals Settlement option are **ineligible** for SCF regardless of actual provider participation in the settlement process with CMS.

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***Which Medicare Part B appealed claims are eligible for the Settlement Conference Facilitation process?***

- A request for hearing must appeal a QIC reconsideration decision on Medicare Part B items or services;
- The appellant must be a Medicare provider or supplier (for the purposes of this pilot, “appellant” is defined as a Medicare provider or supplier that has been assigned an NPI number);
- The beneficiary must not have been found liable after the initial determination or participated in the QIC reconsideration;
- All jurisdictional requirements for a hearing before an Administrative Law Judge must be met for the request for hearing on all appealed claims;
- The request for hearing must not be scheduled for an Administrative Law Judge hearing;
- The request for hearing must have been filed on or before September 30, 2015;
- The amount of each individual claim must be \$100,000 or less (for the purposes of an extrapolated statistical sample, the extrapolated amount must be \$100,000 or less);
- At least 20 claims must be at issue, or at least \$10,000 must be in controversy if fewer than 20 claims are involved;
- There cannot be an outstanding request for OMHA statistical sampling for the same claims;

- The request must include all of the appellant's pending appeals for the same item or service at issue that meet the SCF criteria. For example, if an appellant has 50 wheelchair appeals pending that meet the requirements above, the appellant must submit a request for SCF for all 50 wheelchair appeals.
  - Appellants may not request an SCF for some but not all of the items or services included in a single appeal. For example, if an individual appeal has at issue 10 diagnostic tests and 10 drugs/biologicals, an appellant may not request that the diagnostic tests go to SCF and the drugs/biologicals go to hearing.
- The appealed claim(s) must not involve services, drugs, or biologicals billed under unlisted, unspecified, unclassified, or miscellaneous healthcare codes (e.g., CPT Code 38999 Unlisted procedure, hemic or lymphatic system; J3490 Unclassified drugs);
  - Equipment or items (excluding drugs or biologicals) which are billed under unlisted, unspecified, unclassified, or miscellaneous healthcare codes are eligible for SCF.
- The appellant has not filed for bankruptcy and/or does not expect to file for bankruptcy in the future; and
- The appellant has received an Office of Medicare Hearings and Appeals *Settlement Conference Facilitation Preliminary Notification* stating that the appellant may request SCF for the claims identified in the SCF spreadsheet. An appellant may not formally request a settlement conference until receiving this notice, but an appellant can initiate the process by filing its *Expression of Interest*.

Requests for review of QIC dismissals are not eligible for the SCF process. Beneficiary-initiated appeals of QIC reconsiderations are not included in this pilot because those appeals are being prioritized for a hearing before an Administrative Law Judge. Appeals arising from Medicare Part C, Medicare Part D, and appeals of Social Security Administration decisions regarding entitlement, Part B late enrollment penalties, and Part B and Part D income related monthly adjustment amounts (IRMAAs) are not eligible for the SCF process at this time.

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***How do I receive an OMHA Settlement Conference Facilitation Preliminary Notification?***

You must file an *Expression of Interest* with OMHA requesting that OMHA run a preliminary report of your pending Administrative Law Judge appeals, and initiate the SCF process with your pending appeals. Alternatively, OMHA may initiate a preliminary report on its own initiative, or at the request of CMS, and invite select appellants to participate in SCF.

We encourage you to read our website and this entire fact sheet before filing an *Expression of Interest*. Please visit the SCF page at [www.hhs.gov/omha](http://www.hhs.gov/omha) for the most up-to-date instructions, information requirements, and helpful templates for requesting a settlement conference.

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***I already know all of my appeals that are pending at OMHA. Can I just submit my request for SCF and a spreadsheet to you without filing the Expression of Interest?***

No. During the initial phase of the SCF pilot, OMHA found that most appellants do not have an accurate accounting of the appealed claims they have pending at OMHA. In order to maximize OMHA's limited staff time and resources, OMHA will be responsible for the initial accounting of an appellant's appealed claims that are pending at OMHA.

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***Why is CMS given an opportunity to decline participation before I can file my request for SCF?***

All participants' time is valuable and there is a preference to giving all parties the opportunity to respectfully decline participation at their earliest convenience. Notwithstanding, any party may decline to participate at any time during the settlement conference process. Pilot participation is not mandatory for any party.

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***Can I submit my Expression of Interest electronically?***

The *Expression of Interest* must be emailed to OMHA. You must not include any beneficiary personally identifiable information including beneficiary first or last names, beneficiary names represented by initials, beneficiary addresses, or any part of health insurance claim numbers (HICN) on the *Expression of Interest*. You must only provide the information requested on the *Expression of Interest* form. Failure to protect private beneficiary data will result in rejection of your appeals from the SCF process.

OMHA cannot accept electronic signatures at this time. Please scan your *Expression of Interest* form, with original signature, into PDF format and then send it as an attachment to [OMHA.SCF@hhs.gov](mailto:OMHA.SCF@hhs.gov).

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***My company has pending Part A appeals and Part B appeals. Can we submit one Expression of Interest for all of our appeals?***

If an appellant is interested in SCF for their Medicare Part A and Medicare Part B appeals, the appellant must submit a Medicare Part A *SCF Expression of Interest* and a Medicare Part B *SCF Expression of Interest*. Please send both Expressions of Interest in ONE email.

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***My organization shares the same name with other legally affiliated organizations (e.g., subsidiaries), but we all have different NPI numbers. Are we all considered the same Medicare provider or supplier?***

No. For the purposes of this pilot, an appellant is a Medicare provider or supplier who has been assigned an NPI number. Even if organizations have the same or similar name, they will be considered separate and distinct appellants if each organization has a different NPI number.

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***Can organizations that are legally affiliated with each other, but maintain separate NPI numbers, be included in one Expression of Interest and Request for SCF?***

Yes. The *Expression of Interest* and the *Request for SCF* must indicate all of the NPI numbers for each appellant to be included in the process.

Please be aware that logistical considerations may require that this type of request be grouped and scheduled into multiple settlement conference sessions which may lead to multiple settlements for effectuation purposes.

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***Are appealed claims that are currently scheduled for an Administrative Law Judge hearing eligible for SCF?***

No. The pilot is limited to claims that have not yet been scheduled for an Administrative Law Judge hearing.

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***What if I want to request a Settlement Conference Facilitation for a claim that was over \$100,000 or an extrapolated overpayment determination that was over \$100,000?***

The SCF process cannot be used for an individual claim exceeding \$100,000. For the purposes of an extrapolated statistical sample, the extrapolated amount stated in the initial demand notice must be \$100,000 or less. We will continue to explore expanding the pilot for larger claims-related overpayments in the future.

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***What if I want some of the claims in my appeal to be heard by an Administrative Law Judge, but other claims to be settled?***

All claims in the appealed QIC reconsiderations that are eligible for SCF must be included in any settlement that results from the SCF process. Claims from the same QIC reconsideration may not be split and addressed under separate processes.

Additionally, all claims that are unscheduled for Administrative Law Judge hearing that are for the same or similar services or items must be included in any settlement that results from the SCF process. For example, if a supplier has filed 50 requests for hearing concerning wheelchairs, and all of those requests are currently unscheduled for Administrative Law Judge hearing, then all 50 appeals are subject to the settlement conference process.

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***Who is involved in the Settlement Conference Facilitation process?***

The settlement conference must involve individuals authorized to enter into a binding agreement at the conference session. For the appellant, the individual may be an employee or representative of the appellant, provided that the employee or representative is authorized to enter into the agreement on behalf of the appellant. If the appellant does not offer an individual authorized to enter into the agreement at the conference, the conference will be concluded and there will be no further action on the appellant's request for SCF. CMS will provide individuals authorized to enter into a binding agreement at the conference session. The settlement conference facilitator is a specially-trained employee of the Office of Medicare Hearings and Appeals (OMHA), which is a component of the HHS Office of the Secretary, and is organizationally and functionally separate from CMS.

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***Where does the Settlement Conference occur?***

At this time, most settlement conferences are conducted via telephone. In-person conferences at OMHA field offices may be available; however, CMS settlement officials will participate by telephone only. Video Teleconference (VTC) sessions are also available through a party's private VTC connection (if compatible with the OMHA system) or an OMHA VTC vendor.

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***Can I appeal a decision by OMHA to exclude claims from Settlement Conference Facilitation or deny my Expression of Interest or Request for SCF?***

No. OMHA reviews an appellant's claims for SCF to ensure that the appealed claims meet the requirements for the SCF process. OMHA's review is not appealable. Additionally, if OMHA's review suggests that an Administrative Law Judge would not have jurisdiction over the claims appealed, the appeal(s) will be referred to an Administrative Law Judge for potential dismissal. If a dismissal is issued, standard appeal rights will attach to the dismissal if applicable.

If OMHA's review suggests that claims in a particular QIC reconsideration do not meet the other SCF requirements, the reconsideration will be not be considered in the SCF process and will return to the

Administrative Law Judge hearing process for adjudication in the order the request for hearing was received (for example, if you filed your request for hearing in October 2014, the request will be processed with other requests for hearing received in October 2014). If an appeal was already assigned to an Administrative Law Judge, the appeal will return to the Judge's docket.

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***Does CMS have to settle claims?***

No. CMS has exclusive authority to approve the settlement of claims in the SCF process. CMS will make a good faith effort to resolve the claim(s) involved, but neither CMS nor the appellant is required to enter into a settlement agreement and both have the discretion to reject offers.

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***Is CMS waiving Medicare coverage or payment policies if it agrees to settle claims?***

No. CMS settlement officials may potentially discuss the circumstances of the claims at issue and how coverage and/or payment policies were applied, as well as potential limitation of liability and overpayment waiver issues that may apply to a claim denial. However, by agreeing to a settlement in the SCF request, CMS is not waiving coverage or payment policies nor is a settlement agreement an admission of liability by either party.

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***How much time do I have to agree to any settlement proposal?***

The facilitator will work with the appellant and CMS to reach an agreement on the claims at issue during the settlement conference session. In order to efficiently resolve the pending appeals, any settlement must be agreed to and signed by the appellant and CMS at the settlement conference session. There will not be an opportunity to ratify the settlement at a later date.

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***What happens if a settlement cannot be agreed to?***

If the appellant and CMS cannot reach an agreement and the facilitator believes further efforts to reach an agreement will be futile, the facilitator will conclude the process. At that time, the appealed claims will return to the Administrative Law Judge hearing process for adjudication in the order the request for hearing was received (for example, if you filed your request for hearing in October 2014, the request will be processed with other requests for hearing received in October 2014). If an appeal was already assigned to an Administrative Law Judge, the appeal will return to the Judge's docket.

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***Why does a settlement have to be specific to a Medicare provider or supplier?***

Any settlement that results from the SCF process must be specific to a Medicare provider or supplier to ensure the proper effectuation of any payment to or recoupment from the provider or supplier.

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***What if I want to request Settlement Conference Facilitation for both pre- and post-payment claim denials?***

When you are ready to submit your SCF request package, you must indicate on the *SCF Request Spreadsheet* which claims are post-payment claim denials. Please follow the directions on the *SCF Request Spreadsheet* when identifying post-payment claim denials.

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***Can I request a statistical sample of the appealed claims for adjudication?***

OMHA has a separate option for requesting adjudication based on a review of a statistical sample of appealed claims, which would be conducted by Administrative Law Judges through the traditional hearing process. OMHA will not conduct a settlement conference on appealed claims for which you have requested the use of statistical sampling through the OMHA statistical sampling option.

However, you and CMS could agree to a sampling of the appealed claims in the SCF process. You can discuss this potential with the facilitator. In addition, if you and CMS cannot reach an agreement and the facilitator ends the facilitation process, you can then request the OMHA statistical sampling option to adjudicate the claims.

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***What happens if I change my mind after I agree to a settlement? Can I appeal the settlement agreement?***

Settlement agreements are binding and cannot be appealed. If you agree to a settlement with CMS, you must agree that you withdraw your request(s) for Administrative Law Judge hearing and that you will not pursue further appeals or reviews of the claims subject to the settlement.

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***What happens if another party to a claim involved in the settlement (for example, the beneficiary), challenges the dismissal that results from the settlement agreement?***

All parties to the initial determination are parties to the Administrative Law Judge Hearing (42 C.F.R. § 405.906). While non-appellant parties often do not participate in the hearing process, they do have a right to the hearing and we must ensure that right is preserved. A non-appellant party will receive notice of the dismissal that results from the settlement and may request a review by the Medicare Appeals Council to vacate the dismissal. If the Medicare Appeals Council vacates the dismissal and remands the claim for a hearing before an Administrative Law Judge, a standard term in the settlement will remove the claim from the settlement agreement (that is, the agreement will be nullified for the specific claim). We expect this circumstance to be rare, but a waiver of a non-appellant party's right to a hearing may be obtained and submitted at the appellant's discretion to avoid the possibility.

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***Is there a template for settlement agreements?***

Yes. The settlement agreement for this pilot has been vetted and approved by several agencies in the federal government. The agreement contains standard terms that cannot be altered in any form or fashion. If an appellant does not agree to the terms in the settlement agreement template, it should not participate in this process. The settlement agreement template can be found on the SCF page of our website at [www.hhs.gov/omha](http://www.hhs.gov/omha).

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***How is payment negotiated in SCF?***

Settlement agreements in this program authorize payments as a percentage term. For example, settlement parties could agree that CMS will pay 50% of the approved amount on the claims in the *SCF Request Spreadsheet*.

For pre-payment denials (including down-coding), the percentage agreed to by CMS is a percentage of the Medicare approved amount less the applicable deductible and/or co-insurance, if any (that is, the percentage is applied only after the deductible and/or co-insurance has been subtracted from the Medicare approved amount). Where down-coding is involved, the amount already paid by Medicare (constructively

or otherwise) is subtracted from the preceding calculated amount. For post-payment denials, the percentage agreed to by CMS is the percentage by which CMS will reduce the overpayment(s) at issue.

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***Can we agree to different percentage terms for specific claims?***

No. The percentage term agreed to by the appellant and CMS applies to all claims on the *SCF Request Spreadsheet*.

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***Will I receive a new Remittance Notice pursuant to a settlement agreement?***

No. Per CMS, the claims will remain denied in Medicare's systems and new remittance notices will not be issued.

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***Can I bill beneficiary secondary payers pursuant to a settlement agreement?***

As the claims remain denied, the appellant agrees that it will not seek further reimbursement from the beneficiary. Reimbursement from other insurance carriers will depend on those organizations' internal payment policies. CMS and OMHA do not have authority on the manner in which other insurance carriers determine secondary payer reimbursement.



## SCF OPEN DOOR CALL: PARTICIPANT SUBMITTED QUESTIONS

The following questions were submitted at the SCF Open Door Call on October 15, 2015. Please carefully review the answers to determine whether SCF is appropriate for you and your organization.

***Are Skilled Nursing Facility (SNF) services billed as Medicare Part B ancillary services eligible for SCF?***

Yes, SNF services billed as Medicare Part B ancillary services are eligible for SCF. These claims are eligible regardless of which CMS contractor processed your claim and/or appeal reviews.

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***What if a miscellaneous code is billed on the claim for an item that is eligible for the SCF? For example, a power wheelchair may have several miscellaneous codes, such as E1028s and K0108. Will the base be eligible and the miscellaneous codes ineligible?***

We have updated the pilot's eligibility criteria since the October teleconference. Equipment and items billed with unlisted, unspecified, unclassified, or miscellaneous codes are now eligible for Phase II of the SCF pilot. Appealed claims involving services, drugs, or biologicals billed under unlisted, unspecified, unclassified, or miscellaneous healthcare codes remain ineligible for SCF. Please note: If any items were miscoded, CMS will take this into account during the negotiations.

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***Are hospital outpatient Part B claims eligible for SCF?***

Yes, hospital outpatient part B claims are eligible for SCF under Phase II which was announced in the Fall of 2015.

Note: Under Phase III of the pilot, all Part A provider types are eligible to request participation in the OMHA SCF Pilot beginning February 25, 2016. This includes acute care hospitals; however, claims that were eligible for the CMS Part A Hospital Appeals Settlement option are ineligible for the OMHA SCF Pilot regardless of actual provider participation in the settlement process with CMS.

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***Are ambulance transportation claims eligible for SCF?***

Appealed claims are ineligible for SCF if the beneficiary was held liable for the amount in controversy at lower levels of appeal and/or the beneficiary participated in the appeal review. In many ambulance or medical transportation appealed claims, the beneficiary has been held liable for the amount in controversy. Consequently, most ambulance/medical transportation appeals are not eligible for SCF.

If a supplier has appeals pending that meet all of the SCF eligibility requirements, including the beneficiary liability/beneficiary participation conditions, then the supplier is welcome to file an SCF *Expression of Interest*.

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***Is this process open to home health claims?***

Home health provider appeals are eligible for SCF.

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***If a settlement is reached, will CMS create/allow edits in the system so that it shows that this claim was paid and any requirements for future downstream normally allowable payments have been met or are moot? For example, will the system show that: the DIF/CMN requirement is met or moot, normally allowable repairs may be made, or normally allowable future rental months may be paid?***

CMS is responsible for the processing of Medicare claims and any effectuation of payment related to those claims or their appeals. OMHA does not perform these functions.

Currently, all claims that are resolved as part of a final SCF settlement agreement will remain denied in Medicare's systems. This could cause future claims related to the settled claims for items and services to be denied, for example repair of a wheelchair, or future rental months. CMS acknowledges this issue and is looking into possible ways to allow for payment of these types of claims in the future.

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***Can an appeal arising from a claim with a "PR96 denial" qualify for SCF?***

Claims with PR96 denials are eligible for the SCF pilot. Please note: If, upon review of the claim, CMS believes the denial was appropriate because Medicare does not cover the item or service at issue, CMS will take this into account during the negotiations and this non-covered item or service will likely impact the amount of any settlement offer.

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***Who from CMS attends the settlement conference?***

Individuals from CMS' Office of Financial Management attend the settlement as CMS representatives.

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***I have rental claims that have been denied at lower levels of appeals for the first three months the beneficiary rented the equipment. Subsequent rentals for the same beneficiary, and for the same items, were approved at lower levels of appeal. Do these subsequent appeal decisions have any impact on requesting SCF for the first three months of rental (which are still denied and in appeal)?***

No, this scenario does not have any impact on requesting SCF for the first three rental months. Your requests for ALJ hearing for the first three months are eligible for SCF so long as all other eligibility requirements are met.

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***Where are settlement conferences held?***

At this time, most settlement conferences are conducted via telephone. In-person conferences at OMHA field offices may be available; however, CMS settlement officials have stated they will participate by telephone only. Video Teleconference (VTC) sessions are also available through a party's private VTC connection (if compatible with the OMHA system) or an OMHA VTC vendor.

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***Can the appellant be represented by an appointment of representative?***

You may be represented by an attorney or other representative, if you so choose. You do not need to complete a separate appointment of representation form. You only need to complete the SCF forms found on our website and as instructed by OMHA.

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***If the settlement agreement must be signed on the day the agreement is made, will it be signed electronically since everyone won't be in the same room? By everyone I mean the provider and the CMS.***

Yes, the settlement agreement is emailed or faxed first to the appellant for review and signature. The appellant returns the signed copy via fax/email to OMHA and OMHA then forwards the agreement to CMS for signature. Once fully executed, OMHA will forward the completed settlement agreement to all parties.

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***If a provider failed to file a timely appeal when the claim(s) were denied for an item or service, is there any recourse for that provider if CMS later provides guidance to contractors that denied claims should have been paid? Can providers send these claims for appeal now?***

Appeals subject to the SCF pilot must meet the federal regulations for ALJ jurisdiction (for example, timely filing of a request for ALJ hearing). To the extent that an appellant's claims do not satisfy the regulatory requirements for ALJ jurisdiction, then those claims are not eligible for SCF.

If a provider or supplier has concerns regarding CMS contractor actions in a specific instance, then those concerns must be addressed to CMS outside of the SCF process.

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***Can we submit an SCF Expression of Interest form to get the process started or do we have to wait for OMHA to send us a notification of SCF eligibility?***

Yes, you may submit an *Expression of Interest* form to initiate the SCF process. OMHA will send you a preliminary notification later in the process.

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***Is there an acknowledgment of receipt of the Expression of Interest form so the Appellant is assured that it has been received?***

Yes, you will receive an email notification that your *Expression of Interest* has been received.

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***Is there a deadline to submit for SCF?***

There is currently no deadline to submit an *Expression of Interest*.

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***Will the appellant have an opportunity to dispute or amend the preliminary report containing appellant claims eligible for SCF?***

The preliminary report that is sent to CMS at the beginning of the SCF process contains only basic information regarding the appellant's pending appeals at OMHA. The appellant will not have an opportunity to dispute or amend the preliminary report.

The appellant will have an opportunity to review and object to appealed claims identified its SCF Request Spreadsheet when it receives its SCF Preliminary Notification. If the appellant has any issues with regard to the appealed claims listed on the SCF Request Spreadsheet, the appellant should contact the SCF Manager identified in its SCF Preliminary Notification as soon as possible. The SCF Manager will work with the appellant to resolve any issues.

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***If any party can decline participation in the SCF process, can a Medicare Administrative Contractor (MAC) or Qualified Independent Contractor (QIC) speak up and cause a cancellation of the SCF process or is it just between the appellant and OMHA?***

The settlement parties in the SCF pilot are the appellant and CMS. MACs and QICs are not parties in the SCF process and they do not participate or attend the settlement conference. Notwithstanding, CMS is free to consult with its contractors when determining its negotiation posture prior to the settlement conference.

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***The CMS Certification Number (CCN) or Provider Transaction Number (PTAN) are very different numbers. Can you please clarify how the PTAN connects with the individual claim? Can you please give more detail of what Claim Adjustment Reason Code (CARC) and Remittance Advice Adjustment Code (RARC) codes are and where to find them?***

The PTAN is a number that CMS uses to identify the provider and claims associated with that provider. CMS has requested that appellants complete the coding information to ensure proper effectuation of all settlement agreements.

The SCF Request Spreadsheet contains a Spreadsheet Key which defines each code and explains where you can find the code (e.g., most of these codes are found on the Medicare Remittance Advice). Please see the SCF Request Spreadsheet found on our website for more information on these codes.

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***What criteria are used to determine settlement amounts?***

The settlement conference is a negotiation between the parties. As such, the parties determine how they wish to discuss the claims; however, appellants should note the settlement conference is not an ALJ hearing. If an appellant desires the establishment of findings of fact and/or application of the law to each individual claim, an ALJ hearing would be the more appropriate venue.

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***Can you file by year since this is now open through September 30, 2015 for Part B and December 31, 2015 for Part A?***

All eligible appealed claims, regardless of the request for hearing filing year, will be subject to a settlement agreement.

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***Can we choose to just submit our power chair appeals and NOT submit manual chairs, oxygen, etc. that are also pending at OMHA?***

Appealed claims that are the same or similar items must be included in the SCF process. In this example, power mobility devices, motorized wheelchairs, and manual wheelchairs are considered same or similar items. Oxygen is not similar to wheelchairs and would not need to be included in the SCF process unless the appellant wanted to include oxygen claims as well.

Notwithstanding the above, claims from the same appeal may not be split and addressed under separate processes. For example, if an appeal contains claim(s) for wheelchairs and oxygen, and the appellant does not want oxygen items included in SCF, then the entire appeal will be removed from the SCF process.

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***Under the Medicare Part B DME benefit, External Infusion Pumps (E0781) are used to administer a variety of drugs, as are the supply kit codes (A4222), and may be denied for many different reasons. Would a settlement conference related to External Infusion Pumps (E0781) include all drug therapies for all denial reasons?***

Yes, the drug therapies would be included under the SCF eligibility requirement that the same/similar items and services must be included in the SCF process. In this example, the infusion pump, supply kit, and accompanying drug therapies are required to perform the same service. So, all of these items would be included in the settlement conference process.

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***Do appellants need to agree to SCF for all claims that are included on the SCF Request Spreadsheet? What if there are claims on there that we would prefer an ALJ hearing for?***

Appellants may not object to appealed claims on the SCF Request Spreadsheet because they would prefer an ALJ hearing for those claims. Objections will only be considered if the appellant has knowledge that the appealed claim(s) on the spreadsheet does not meet the SCF eligibility criteria (e.g., no ALJ request for hearing filed for a claim, the beneficiary participated at the QIC review, etc.).

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***If an appellant does not submit a proper SCF request package within 15 calendar days of receipt of the preliminary notification, the SCF process will close for the appeals at issue on the SCF spreadsheet. Does this mean that those appeals will remain in queue for the ALJ?***

Yes, the appeals will return to the Administrative Law Judge hearing process for adjudication in the order the request for hearing was received (for example, if you filed your request for hearing in October 2014, the request will be processed with other requests for hearing received in October 2014). If an appeal was already assigned to an Administrative Law Judge, the appeal will return to the Judge's docket.

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***If I have several locations/NPI numbers, could I submit an SCF Expression of Interest for one NPI number and not the others?***

For the purposes of this pilot, an appellant is a Medicare provider or supplier who has been assigned an NPI number. Even if organizations have the same or similar name, they will be considered separate and distinct appellants if each organization has a different NPI number. An appellant may be selective in determining which NPI number it wishes to include in the SCF process.

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***Is this for all dates of service, as long as the ALJ hearing request was filed by September 20, 2015 for Part B and December 31, 2015 for Part A and was not yet scheduled?***

Yes. The SCF eligibility requirements do not include limits on the dates of service at issue in the appeal.

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***For an overpayment extrapolation, if a sample of 100 claims represents a total of \$800,000, with each claim worth \$8000, will this meet SCF eligibility?***

For appealed claims attached to an extrapolated overpayment, SCF eligibility will depend on the amount of the extrapolated overpayment. The amount of each individual claim in the sample is irrelevant.

In this example, if CMS and/or its contractors notified the appellant that the extrapolated overpayment amount under appeal was more than \$100,000, then all of the appealed claims in the sample would be ineligible for SCF at this time.

Last revised February 22, 2016