



**MAXIMUS CHDR
Program of All-Inclusive Care for
the Elderly (PACE) Organization
Reconsideration Process
Manual**

PACE Reconsideration Project

MAXIMUS Center for Health Dispute Resolution
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Victor, New York 14564

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Project Web Site: www.medicareappeal.com



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MAXIMUS CENTER FOR HEALTH DISPUTE RESOLUTION

PACE APPEAL PROCESS MANUAL

Effective: May 1, 2005



1. INTRODUCTION

The Balanced Budget Act of 1997 requires the federal government to contract with an Independent Review Entity (IRE) to review and resolve coverage disputes between Medicare + Choice Organizations (M+Cs) and Medicare managed care enrollees. The Centers for Medicare & Medicaid Services (CMS) has contracted with the MAXIMUS Center for Health Dispute Resolution (MAXIMUS CHDR) to serve as this independent entity. Under this contract, MAXIMUS CHDR also conducts Appeals for PACE Organizations (POs)

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

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

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

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

Janice Eidem, Project Director, PACE Appeal Project
MAXIMUS CHDR
1 Fisher’s Road - 2nd Floor
Victor, New York 14564
Telephone: 585-425-5210



2: DEFINITIONS

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

2.1 APPEAL

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

2.2 APPEAL OFFICER

An appeal professional employed by MAXIMUS CHDR to manage individual Appeal case files. MAXIMUS CHDR Appeal Officers include nurses, attorneys and "dual degree" professionals (e.g., nurse/attorney). Appeal Officers do not make medical necessity determinations. Medical necessity determinations are made by fully credentialed board certified physicians under contract with MAXIMUS CHDR.

2.3 APPEAL SYSTEM

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

2.4 DE-NOVO REVIEW

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



2.5 DESIGNATED REPRESENTATIVE

An individual identified by the PACE Organization as a party designated by the participant.

2.6 EXPEDITED APPEAL

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

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

2.7 INDEPENDENT REVIEW ENTITY (IRE)

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

2.8 INTERDISCIPLINARY TEAM DECISION

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



2.9 PACE ORGANIZATION (PO)

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

2.10 PLAN OF CARE

See 42 CFR §460.106

2.11 PO DETERMINATION

A de-novo review of an adverse PO interdisciplinary team decision, conducted by the PO. The PO Reconsideration is the first level in the appeal system.

2.12 INDEPENDENT REVIEW ENTITY DETERMINATION NOTICE

Letter used to communicate MAXIMUS CHDR's final decision on an Appeal.

2.13 REOPENING

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

2.14 REQUEST FOR INFORMATION (RI)

A MAXIMUS CHDR document submitted to the PO requesting information from the PO to correct a case file deficiency.

2.15 STANDARD APPEAL

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



3: WORKING WITH MAXIMUS CHDR

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

- 3.1 Sources of Information about MAXIMUS CHDR IRE appeal
- 3.2 Set-up of PACE Organizations with MAXIMUS CHDR
- 3.3 Identifying and Changing PO Points of Contact with MAXIMUS/CHDR
- 3.4 Seeking Information About Active Cases
- 3.5 Suggestions and Complaints

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

3.1 SOURCES OF INFORMATION ABOUT MAXIMUS CHDR IRE APPEAL

PACE Appeal Project Process Manual

MAXIMUS CHDR maintains and distributes a process manual for the *PACE Appeal Project* as the primary print source for information about the IRE program. The manual contains process information specific to the PO. MAXIMUS CHDR provides the PO with the applicable bound version, plus any subsequent updates. Copies of the Manual may be found on the Project web site, www.medicareappeal.com. A copy of all MAXIMUS CHDR Process Manuals can be found on the Project web site, www.medicareappeal.com. (See Exhibit 3-1), or on the PACE website, www.cms.hhs.gov/pace.



Exhibit 3-1

Medicare **Managed Care & PACE** Reconsideration Project

Web Site

Center for Health Dispute Resolution About Us Contact Us

MEDICARE MANAGED CARE APPEALS

[Medicare Enrollees](#) [Health Plans](#) [Medicare Links](#) [Laws & Regulations](#) [Researchers/Data](#) [Newsletters](#)



 



Case status information on the Project web site is purposefully limited to protect participant and PO confidentiality. The case can only be accessed by the “Appeal Case Number” that is assigned by MAXIMUS CHDR upon receipt of a case file from the PO. The Appeal Case Number format is YY-XXXXX, where X is a sequential number signifying the order within which cases are received during the calendar year. An Appeal Case Number has no logical relationship to Social Security Number, Medicare Number, Plan identifier or any other confidential information. The information that can be obtained by Appeal Case Number is limited to:

- MAXIMUS CHDR Appeal Receipt Date
- Case Class (Expedited, Standard Service, Standard Claim)
- Current Status (in-process or completed)
- Decision (Uphold, Overturn, Partial Overturn, Withdrawn, Dismissed)
- Decision Date
- Reopen Request Receipt Date
- Reopen Status
- Reopen Decision
- Reopen Decision Date
- ALJ Request Date
- ALJ Decision
- ALJ Decision Date

3.2 SET-UP OF NEW PACE ORGANIZATIONS WITH MAXIMUS CHDR

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

3.3 IDENTIFYING AND CHANGING PO POINT OF CONTACT

PO Key Organization Contact

As part of new PO project set-up, MAXIMUS CHDR requests that each PO designate and maintain one Key Organization Contact. POs that operate under the CMS program agreement numbers must designate and maintain a Key Organization Contact for each CMS program agreement. The PO may use the same, or different, personnel as the Key Organization Contact for each program agreement. This individual will be the official management contact with MAXIMUS CHDR. MAXIMUS CHDR will send the Key Organization Contact all important materials. We will also contact this individual if we encounter a general issue working



with the PO, or an unusual and significant case-specific problem. The PO should use the Key Contact to initiate contact with MAXIMUS CHDR to resolve problems perceived by the PO. To identify or change this individual, submit the Notice of Change in Key Organization Contact (located in Appendix A) to MAXIMUS CHDR.

PO Individual Appeal Case Contacts

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

3.4 SEEKING INFORMATION ABOUT CASES

As discussed above, the PO can obtain basic information concerning the status of active and decided cases via the Project web site, www.medicareappeal.com.

In addition, MAXIMUS CHDR maintains a staffed switchboard Monday to Friday, from 8 AM to 5:30 PM and Saturday from 9 AM to 2 PM, Eastern Time (585-586-1770). For calls received after normal business hours, the caller may choose to leave a message that will be returned the next business day or the caller may choose to be directed to a 24-hour answering service.

For inquiries simply about the processing status of a specific case file, or group of cases, ask the MAXIMUS CHDR operator for “Case Tracking” support.

MAXIMUS CHDR employs a staff of “Appeal Officers” (AOs) who manage individual appeal case files. Specific questions about a case under review should be directed to the individual Appeal Officer assigned to the case in question. Consult MAXIMUS CHDR case documentation, or ask the MAXIMUS CHDR operator, to identify the Appeal Officer assigned to the case. In many instances, MAXIMUS CHDR will have to retrieve the case file from record storage in order to respond to an inquiry. For this reason, you may be asked to record a message in voice mail.

POs are responsible for providing all information to support the participant’s appeal. POs should not direct participants to MAXIMUS CHDR for routine case status inquiries. POs should instruct participants to contact the PACE Organization for routine case status inquiries.



3.5 SUGGESTIONS AND COMPLAINTS

MAXIMUS CHDR is an ISO 9001:2000 certified entity. The ISO 9001:2000 standard is an internationally recognized quality management system standard developed by the International Organization of Standardization. The ISO process emphasizes the use of quality standards in systems, procedures, documentation and total employee involvement.

To be certified to the ISO 9001:2000 standard, MAXIMUS CHDR implemented an extensive quality management system covering our reconsideration case processing and delivery of our services to the customer. As such, management requires a formal process for identification of opportunities for corrective and preventive action, or continuous improvement. Please provide any suggestions or complaints to any MAXIMUS CHDR staff member who is interacting with you, or to the Project Director. If you are not completely satisfied, the MAXIMUS CHDR Executive Director would appreciate the opportunity to address your concern.



4: BACKGROUND—IMPORTANT CONSIDERATIONS PRIOR TO DEVELOPING THE APPEAL CASE FILE FOR SUBMISSION TO MAXIMUS CHDR

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

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

- 4.1 PO Interdisciplinary Team Decision Notice Requirements
- 4.2 PO Determination of Party, Representative and Eligible Appeal
- 4.3 Appeal Classes
- 4.4 PO Responsibility to Conduct a Full PO Appeal
- 4.5 PO Reconsideration with Incomplete Evidence

4.1 PO INTERDISCIPLINARY TEAM DECISION AND NOTICE REQUIREMENTS

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

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

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



4.2 PO RECONSIDERATION DECISION NOTICE REQUIREMENTS

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

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

4.3 PO DETERMINATION OF PARTY, REPRESENTATIVE AND ELIGIBLE APPEAL

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

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

- 4.3.1 Individuals “Supporting” the Participant
- 4.3.2 Representative of Participant
- 4.3.3 Representative of Deceased Participant Estate

4.3.1 INDIVIDUALS “SUPPORTING” THE PARTICIPANT

Any person, including a provider, may “support” the participant appeal by providing written or oral testimony at the PO level appeal or written testimony at the IRE level Appeal. Providing support for a participant’s appeal does not necessarily mean that the individual is permitted to make an appeal on the participants’ behalf. Therefore, it is important for the PO to distinguish between those individuals who are acting on behalf of the participant versus those



that are merely providing support for the participant's appeal request. If needed the PO should conduct further investigation to identify the appropriate appealing party.

4.3.2 REPRESENTATIVE OF PARTICIPANT

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

4.3.3 LEGAL REPRESENTATIVE OF A DECEASED PARTICIPANT'S ESTATE

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

4.4 APPEAL CLASSES

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

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

4.5 PO RESPONSIBILITY TO CONDUCT A FULL RECONSIDERATION

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

MAXIMUS CHDR will utilize the "Request for Information" process (See Section 6.6), to direct POs to remedy a case in which a complete PO level appeal has not occurred. Such request may extend to a "remand" of a case back to the PO to undertake and complete such a review. MAXIMUS CHDR will notify CMS if a PO displays a pattern of failure to complete and document a thorough PO level appeal.

Prior to submitting a case for appeal, the PO should exhaust all reasonable efforts to obtain the required evidence and records. If the PO is submitting a case file with incomplete evidence, the PO should document these efforts in the case file submitted to MAXIMUS CHDR.





5: SUBMITTING THE APPEAL CASE FILE TO MAXIMUS CHDR

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

- 5.1 Cases That Must Be Submitted to MAXIMUS CHDR
- 5.2 Time Standards For Submission of Cases to MAXIMUS CHDR after PO Reconsideration
- 5.3 Preparation and Submission of the New Case File to MAXIMUS CHDR

5.1 CASES THAT MUST BE SUBMITTED TO MAXIMUS CHDR

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

5.2. TIMELINESS OF SUBMISSION OF EXPEDITED CASES

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

Submission of cases must occur as soon as possible after the PO's completion of its appeal determination and the appealing party's request for independent review by the IRE. It is assumed that the case file submission can occur within 24-hours. The 24-hour period permitted for submission is thus in addition to the time permitted for the PO Appeal. MAXIMUS CHDR will report to CMS on the POs adherence to the specified timeframes.

5.3 PREPARATION AND SUBMISSION OF THE NEW CASE FILE TO MAXIMUS CHDR

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



- 5.3.1 Initiation of Expedited Cases
- 5.3.2 Organization of the New Case File Package
- 5.3.3 Organization of Individual New Case Files
- 5.3.4 Confirmation of MAXIMUS CHDR Case Receipt

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

5.3.1 INITIATION OF EXPEDITED CASES

To initiate submission of an expedited case, the PO must fax or email MAXIMUS CHDR a *Notice of Intent to Submit Expedited Appeal* form. (See Appendix A).² We require this form to enable work planning for these short turn-around cases, and also to alert the PO if a planned case delivery does not occur.

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

Note that because of the short turn-around time for expedited cases, MAXIMUS CHDR does not send the appellant or PO an *Acknowledgement Letter* (See Appendix B) for such cases.

5.3.2 ORGANIZATION OF THE NEW CASE FILE PACKAGE

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

MAXIMUS CHDR
PACE Appeal Project
50 Square Drive, Suite 210
Victor, New York 14564

The PO may include more than one new case in the package submitted to MAXIMUS CHDR:

- Complete and place the form, *New Appeal Case File Transmittal Cover Sheet* (See Appendix A) on top of the case file package.
- Place each case in the package in a separate envelope.

² See also page ii of this Manual, *Contacting MAXIMUS CHDR*, for fax and email instructions.



- Do not staple or permanently bind case file material. Use of clips or binders that can be removed without special equipment is permissible.
- Do not include any material in a “new” case file package submitted to MAXIMUS CHDR that is not related to a new case.

5.3.3 ORGANIZATION OF INDIVIDUAL NEW CASE FILES

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

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

5.3.4 CONFIRMATION OF MAXIMUS CHDR CASE RECEIPT

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

Expedited Cases

If the PO submits a *Notice of Intent to Submit an Expedited Appeal Form*, MAXIMUS CHDR will contact the PO if the file does not arrive on the date identified in the form. MAXIMUS CHDR does not send an *Acknowledgement Letter*, due to the short time available for case processing. Our receipt of the file is confirmed by the PO and other party’s receipt of our *Appeal Determination Letter*. (See Section 6.6).

Standard Appeal

MAXIMUS CHDR sends the PO and appealing party an *Acknowledgement Letter* (See Appendix B) by regular first class mail within 48 hours of our receipt of the case file. Allowing for time for delivery of the POs case to MAXIMUS CHDR, the PO should contact MAXIMUS CHDR if it has not received the *Acknowledgement Letter* within 10 business days of the case submission to MAXIMUS CHDR.



Exhibit 5-1

EXPLANATION OF “CASE MATERIAL”

- Notices
 - PO Interdisciplinary team decision Denial Notice
 - Notice of PO Appeal Determination

- Record of Adverse Determination and Internal PACE Reconsideration
 - Completed medical records regarding the PO’s initial determination, including the reassessments, as required in 42 CFR§460.104, to address participant’s request for modification of plan of care
 - Documentation of arguments of the participant or participant’s representative
 - Documentation of the team’s arguments in defense of their decision.
 - Letters of support from members of the interdisciplinary team or other providers
 - Complete report from the credentialed unbiased third party
 - Chronology of events leading up to the appeal

- PO Decision Making Criteria
 - Complete copy of formulary policy for pharmacy cases
 - Complete copy of any standards of practice utilized
 - Complete copy of internal medical policy (e.g., choice of drug for treatment of a particular condition), utilization review criteria, technology assessment, or other cited medical criteria

- Medical Record



6: MAXIMUS CHDR APPEAL PROCESS

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

- 6.1 MAXIMUS CHDR Case Processing Time Standards
- 6.2 Administrative Case Intake
- 6.3 Policies on Communication with PO and Appellant During Case Processing
- 6.4 Appeal Officer Case Review
- 6.5 Physician Review
- 6.6 Requests to PO For Additional Information
- 6.7 MAXIMUS CHDR Determination Notices
- 6.8 Participant Requests for Case Files

6.1 MAXIMUS CHDR CASE PROCESSING TIME STANDARDS

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

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

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

The start of the time period for IRE Appeal is the date on which the case is received at MAXIMUS CHDR. The end of the time period is the date on which MAXIMUS CHDR mails its Appeal Determination notice. Determinations are sent by standard first class mail, and additional time should be allowed for mail delivery. A redacted copy of an expedited Appeal Determination is faxed or emailed to the PO within 24 hours of MAXIMUS CHDR completion.



The MAXIMUS CHDR contract with CMS requires MAXIMUS CHDR to adhere to these timeliness standards in 95% of cases.

6.2 ADMINISTRATIVE CASE INTAKE

The steps in MAXIMUS CHDR administrative case intake are:

- Mail opening and sorting of new case files.
- Matching of expedited cases to PO *Notice of Intent to Submit Expedited Case*.
- Inquiry on CMS systems to verify participant enrollment in PO.
- System assignment of a “Appeal Case Number”:
Format: YY—XXXXX, where:
 - “YY” is the year in which the case was received (e.g., 02)
 - “XXXXX” is a sequential number assigned by the CMS Recon System (e.g., 1st case in a year is 00001)
- Generation of *Acknowledgement Letters* (standard service and claim only).
- Assignment of the case to a MAXIMUS CHDR Appeal Officer

See Section 5.3.5 for the discussion of *Acknowledgement Letters* and response the PO should take if a letter is not received.

Note that our ability to accomplish case intake is compromised if the PO does not provide the participant’s Medicare number and all other required fields on the *Appeal Background Data Form* (See Appendix A). Error or omissions on the *Appeal Background Data Form* will lead to delays in MAXIMUS CHDR intake of the case.

6.3 POLICIES ON COMMUNICATION WITH PO AND APPELLANT DURING CASE PROCESSING

6.3.1 ALL EVIDENCE MUST BE IN WRITING

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

If any party calls MAXMUS CHDR they are advised that the information they relay will not be considered unless it is submitted in writing.



6.3.2 COMMUNICATIONS REGARDING THE POTENTIAL IRE DETERMINATION ARE NOT PERMITTED

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

6.3.3 PARTICIPANT SUBMISSION OF ADDITIONAL INFORMATION TO THE IRE CASE FILE

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

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

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

6.4 APPEAL OFFICER CASE REVIEW

An “Appeal Officer” (AO) is a professional trained by MAXIMUS CHDR to manage the IRE case appeal. Appeal Officers are not permitted to make medical necessity determinations, which require physician review (See Section 6.5). MAXIMUS CHDR Appeal Officers’ backgrounds include nursing/utilization management and health law. Many MAXIMUS CHDR Appeal Officers have both a clinical and law degree.

The tasks that the AO may complete in AO review are:

1. AO reviews issue in appeal and supporting documents submitted by PO.
2. As part of its evaluation of the submitted Appeal, MAXIMUS CHDR determines if the case qualifies for appeal.



3. AO determines if additional information is required from PO to correct case file deficiencies.
4. AO compares notices and PO appeal processing dates listed on the *Appeal Background Data Form* to case file material and CMS requirements. As necessary, the AO will record any deficiencies or discrepancies in the MAXIMUS CHDR data system for subsequent reporting to CMS.
5. AO develops a referral to an appropriate MAXIMUS CHDR medical consultant.
6. AO receives and evaluates the PO response to request for additional information and/or the medical consultant report. As necessary, the AO seeks clarification or correction.
7. AO or MAXIMUS CHDR medical consultant may determine that fraud issues are present, but these issues are not processed as an appeal. If this is the case, the AO will make a referral to CMS for further investigation.
8. AO determines if the case can be decided or if referral to CMS for policy clarification is required.
9. AO makes and writes a final determination. AO will review *Reconsideration Background Data Form* to determine if an *Appeal Determination Notice* must be written in a language other than English.
10. AO abstracts data from the case file for entry into ACTS for subsequent reporting to CMS.

The AO may contact the PO Case Contact by phone or email to address simple factual questions about the case, or may make contact via the Request for Information Process. It is important that the PO Case Contact respond promptly or, if not available, makes arrangements for another PO employee to act as the point of contact.

The PO Case Contact can identify the Appeal Officer assigned to a case by calling MAXIMUS CHDR.

6.5 PHYSICIAN REVIEW

A physician must make IRE determinations of medical necessity, where physician is defined to include medical doctors, doctors of osteopathy and doctors of chiropractic. MAXIMUS CHDR maintains a panel of over 300 medical consultants who are fully credentialed to the standards of our accrediting body, URAC (American Accreditation HealthCare Commission). These medical consultants are located throughout the United States, are in active practice and include a mix of physicians who predominately practice in community versus academic settings.

The MAXIMUS CHDR medical consultants cover all specialties and all relevant subspecialties recognized by the American Board of Medical Specialties (ABMS). Physicians are matched to cases based upon the case clinical issue. For most cases, this means that the specialty of the MAXIMUS CHDR reviewer is the same as the specialty of the physician who would render the contested service. In cases in which the issue is the appropriateness of a referral from



one primary care physician to a specialist (e.g., internal medicine to dermatology), MAXIMUS CHDR must choose to use the specialty of the specialist physician.

The physician consultant's report is reviewed by the Appeal Officer and, if need be, the MAXIMUS CHDR Medical Director. Special emphasis is placed on ensuring that the consultant's determination is consistent with any relevant policies.

6.6 REQUESTS TO PO FOR ADDITIONAL INFORMATION

Request for Additional Information (RI) is the formal process by which MAXIMUS CHDR permits the PO to supply written information to remedy a question or deficiency in the Appeal case file.

6.6.1 REQUEST FOR ADDITIONAL INFORMATION IS AT MAXIMUS CHDR DISCRETION

The MAXIMUS CHDR Appeal is designed as an "on the record" review rather than an "in person" proceeding. Therefore, the PO Appeal case file must include all materials submitted and used in making the PO Appeal decision and all such material as is specified in Section 5.3.

The IRE is under no obligation to seek additional information from the PO. MAXIMUS CHDR may decide a case at any time based upon the information available. MAXIMUS CHDR does not overturn the PO for case file deficiencies, per se, or on an administrative basis. However, in many, if not the majority of, instances, a case file deficiency undermines the denial argument of the PO, hence may result in an IRE overturn and uphold the participant's appeal.

6.6.2 REQUEST FOR INFORMATION PROCESS

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

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

- The AO (or physician consultant) determines the deficiency and double checks the case file to verify the information is, in fact, absent.
- The AO completes a *Request for Information Form* (See Appendix B)
- The AO faxes or emails³ the *Request for Information Form* to the email address provided for the Case Contact on the *Appeal Background Data Form*.

³ The use of email has been determined to be more reliable than use of facsimile. To protect participant confidentiality, the email will contain only the participant initials, residence street name, and date of Recon submission to MAXIMUS CHDR and Recon case number.



- The PO Case Contact returns an email to MAXIMUS CHDR confirming receipt of the Request for Information
- The PO Case Contact calls MAXIMUS CHDR if:
 - o Questions exist about the RI, or
 - o The RI deadline (See Section 6.6.3) cannot be met
- The PO develops the RI Response
- The PO submits the RI Response to MAXIMUS CHDR
- The Appeal Officer confirms receipt of the RI with an email to the PO Case Contact
- The Appeal Officer reviews the RI response to determine if it is sufficient. If not:
 - o Minor omissions are resolved by phone
 - o Major omissions may lead to a repeat of the RI process or may lead to MAXIMUS CHDR decision based on available documents.

6.6.3 PO SUBMISSION OF THE RESPONSE TO A REQUEST FOR INFORMATION

To protect patient confidentiality in accordance with federal standards, the PO must not transmit confidential information to MAXIMUS CHDR by email or fax.⁴ All confidential information must be submitted to MAXIMUS CHDR by hard copy mail or delivery. For purposes of this discussion, the MAXIMUS CHDR assigned Appeal number is not considered confidential information.

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

The PO may respond to a Request for Information by fax if the PO can fully address the RI requirements without use of confidential identifiers, or by redacting such identifiers.

The following maximum time frames apply for PO response to MAXIMUS CHDR Requests for Information:

Expedited Appeals	Within 3 calendar days from date of request
Standard Appeals	Within 5 working days from date of request

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

⁴ The use of secure email for transmittal of Appeal material is under investigation.



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

6.7 MAXIMUS CHDR DETERMINATION NOTICES

6.7.1 MAXIMUS CHDR APPEAL DETERMINATION DEFINITIONS

Upon completion of its Appeal, MAXIMUS CHDR issues an “*Appeal Determination*” letter to the appealing party, with a copy to the PO and CMS (See Appendix B). The general categories of *IRE Appeal Determination Notices* include:

“Uphold of Denial”

MAXIMUS CHDR concurs with the PO initial interdisciplinary team decision. MAXIMUS CHDR decides fully in favor of the PO and against the appealing party requesting the Appeal.

“Overturn of Denial”

MAXIMUS CHDR disagrees with the PO initial interdisciplinary team decision. MAXIMUS CHDR decides against the PO and fully in favor of the appealing party requesting the Appeal.

”Partial Overturn of Denial”

MAXIMUS CHDR disagrees with a portion of the PO initial interdisciplinary team decision. MAXIMUS CHDR decides in part against the PO and in part in favor of the PO.

“Appeal Request Withdrawn”

The appealing party (participant or qualified representative) may withdraw its request for an Appeal. Withdrawal requests must be documented to MAXIMUS CHDR before the case will be withdrawn. In addition, the PO may request a withdrawal, if subsequent to submitting the case file to MAXIMUS CHDR, the PO determines to reverse its original interdisciplinary team decision.

If MAXIMUS CHDR determines that the case does not meet CMS's qualifying criteria, and if the deficiency cannot be corrected (e.g., by Request for Information), MAXIMUS CHDR will contact the PO and instruct the PO to issue a request for withdrawal.



6.7.2 GENERAL CHARACTERISTICS OF IRE APPEAL DETERMINATION NOTICES

All *IRE Appeal Determination Notices* that are not fully in the participant's favor contain an explanation of the participant's right to request further appeal before an Administrative Law Judge of the Social Security Administration.

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

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

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

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

6.7.3 TRANSLATION OF DETERMINATION NOTICES

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

6.8 PARTICIPANT REQUESTS FOR CASE FILES

The MAXIMUS CHDR *Acknowledgement Letter* and brochure (See Appendix B) advise participants of the right to obtain a copy of the Appeal case file from the PO and/or MAXIMUS CHDR. Under instruction from CMS, and subject to the provisions of the Privacy Act and Freedom of Information Act, MAXIMUS CHDR will release a copy of an Appeal case file to a participant, or other authorized individual.

MAXIMUS CHDR may only release to a PO copies of documentation the PO has submitted in the case file.



7: POST APPEAL DETERMINATION PROCESSING

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

- 7.1 MAXIMUS CHDR Monitoring of PO Compliance (“Effectuation”) of IRE Overturns
- 7.2 IRE Reopening Process
- 7.3 Administrative Law Judge (ALJ) Process
- 7.4 Departmental Appeal Board (DAB) Review

7.1 MAXIMUS CHDR MONITORING OF COMPLIANCE WITH OVERTURNED DETERMINATIONS

Compliance (“effectuation”) is defined as the PO’s plan of action with respect to an *IRE Appeal Determination* that reverses the PO’s denial. This requires a payment of a claim or provision of a service or continuation of services as instructed in the *IRE Appeal Determination*.

7.1.1 PO EFFECTUATION

CMS requires PO to submit a plan of action explaining its compliance directly to the CMS team leader. If you have questions regarding an *IRE Appeal Determination*, please contact the MAXIMUS CHDR Project Director of the PACE Appeal Project. Please note MAXIMUS CHDR is not authorized to waive compliance with any final determination. If you feel that you cannot comply with the *IRE Appeal Determination*, you must notify your team leader at CMS.

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



7.1.2 MAXIMUS CHDR APPEAL COMPLIANCE MONITORING

CMS requires MAXIMUS CHDR to monitor PO compliance with the effectuation process, via the following procedure:

1. MAXIMUS CHDR issues the PO a copy of the *Appeal Determination Notice*. Included with this copy is a *Notice to Comply with MAXIMUS CHDR Appeal Determination*, that details the PO's responsibilities, including the timeframe by which a compliance notice must be received by MAXIMUS CHDR. (See Appendix B).
2. The PO is required to submit a statement attesting to compliance (effectuation) to MAXIMUS CHDR. The Statement must be submitted to MAXIMUS CHDR in accordance with timeframes noted within the *Notice to Comply with MAXIMUS CHDR Appeal Determination*.
3. MAXIMUS CHDR provides 5 days from the due date of submission for mail time.
4. If MAXIMUS CHDR does not receive the PO statement of compliance within the required timeframe, MAXIMUS CHDR will send to the PO a reminder notice.
5. If within 2 weeks MAXIMUS CHDR still does not receive the PO statement of compliance, MAXIMUS CHDR reports the PO's deficiency to CMS. The PO is not copied on this report to CMS.

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

PO Statements of Compliance must be mailed separately from other PO correspondence, to the attention of:

MAXIMUS CHDR
PACE Appeal Project
Attn: Compliance Specialist
50 Square Drive, Suite 210
Victor, New York 14564

7.2 IRE REOPENING

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



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

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

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

1. MAXIMUS CHDR receives and logs the *Reopening Request*.
2. An *Acknowledgement Letter* is sent to the party, PO, and CMS.
3. An Appeal Officer not involved in the Appeal reviews the Reopening.
4. The Appeal Officer makes a determination, using a physician review if indicated.
5. A *Reopening Determination Notice* is issued.
6. If the Reopening Determination reverses an Appeal Uphold (i.e., the Reopening finds in favor of the participant), a *Notice to Comply* is also issued to the PO. The PO is then responsible for “effectuation” per the discussion of compliance in Section 7.2 above.

A PO’s request for a reopening does not relieve the PO of the burden of compliance, and reporting of compliance, within the required time frames (See 7.2). The PO is relieved of this burden if the PO obtains a Reopening Reversal (of a Appeal Overturn), prior to the PO compliance date. The PO is not relieved of the burden of compliance with the original Appeal overturn if the PO receives a Reopening Reversal after the original compliance date.

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

7.3 ADMINISTRATIVE LAW JUDGE HEARING

The appellant (participant, his/her authorized representative) may request an appeal of the MAXIMUS CHDR appeal determination before an Administrative Law Judge (ALJ) of the Social Security Administration. MAXIMUS CHDR does not determine a participant’s right to a hearing, nor does it schedule, conduct or administer hearings.

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



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

The right to request an ALJ hearing is explained in the MAXIMUS CHDR *Appeal Determination Notice*. A written request must be submitted to request an ALJ Hearing. This written request can be submitted to MAXIMUS CHDR, the PO or to a local Social Security Administration office. If the PO receives a request for an ALJ hearing, it should immediately forward the request to MAXIMUS CHDR for processing.

MAXIMUS CHDR forwards the ALJ request and Appeal case file to the appropriate Office of Hearings and Appeals. MAXIMUS CHDR simultaneously sends an ALJ Request Acknowledgment Letter to the requesting party, with a copy to the PO.

7.3.2 TRACKING AND CONDUCT OF ALJ HEARING

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

Office of Hearings and Appeals
Division of Medicare
5107 Leesburg Pike, Suite 1703
Falls Church, Virginia 22041-3255

Telephone Number: 703-605-8550

7.3.3 ALJ DETERMINATION PROCESSING

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

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

The PO is obligated to effectuate the ALJ's determination as expeditiously as the participant's health condition requires, but no later than 60 calendar days from the date it receives notice reversing the interdisciplinary team decision. The PO must report the compliance to MAXIMUS CHDR in the same manner as for a MAXIMUS CHDR Appeal reversal.



7.4 DEPARTMENTAL APPEALS BOARD HEARING

Federal regulations permit either party to an ALJ hearing to request a further hearing before the Departmental Appeals Board (DAB). See 42 CFR §422.608. If a hearing before the DAB is requested, MAXIMUS CHDR is contacted by the DAB to provide a copy of the entire case file in dispute. MAXIMUS CHDR does not communicate directly with POs or parties regarding the Departmental Appeals Board hearing process. MAXIMUS CHDR's role is to provide complete case files to the Departmental Appeals Board.

