



**Center for Clinical Standards and Quality/Survey & Certification Group**

---

**Ref: S&C: 15-36-ALL**

**DATE:** April 24, 2015

**TO:** State Survey Agency Directors

**FROM:** Director  
Survey and Certification Group

**SUBJECT:** New Instructions for Providers Filing an Appeal with the Departmental Appeals Board (DAB)

**Memorandum Summary**

- **File a New Appeal Using DAB E-File:** Effective October 1, 2014, providers that disagree with actions imposed on their facility must file a hearing request electronically using the DAB's E-Filing System (DAB E-File).
- **DAB E-File Filing Assistance:** For assistance in submitting a request through the DAB E-File System, filers may call the Civil Remedies Division main telephone line at 202-565-9462.
- **DAB E-File Technical Assistance:** For technical issues regarding the DAB E-File System, filers may contact E-File System Support at [OSDABImmediateOffice@hhs.gov](mailto:OSDABImmediateOffice@hhs.gov).

Effective October 1, 2014, providers that disagree with actions imposed on their facility and want to request a hearing with an Administrative Law Judge in the Civil Remedies Division must submit their request electronically to the Departmental Appeals Board using the DAB E-File at <https://dab.efile.hhs.gov>. In order to utilize the electronic filing system, petitioners must first become a registered user. Detailed instructions on how to register and use the DAB's Electronic Filing System are attached. Please note that all documents must be submitted in Portable Document Format ("pdf").

Written requests for hearings delivered by postal delivery are no longer accepted as of October 1, 2014, unless the petitioner does not have access to internet or a computer. In those circumstances, the petitioner may call the Civil Remedies Division and provide an explanation as to why they cannot file electronically or a request for a waiver from e-filing can be submitted along with a written request. Confirmation of a waiver from e-filing will be received in writing. Attached is sample language that can be used in the Appeal Rights notice which details a petitioner's options for filing a hearing request.

If petitioners have questions regarding the DAB E-File System they may call the Civil Remedies Division main telephone line at 202-565-9462. If a filer experiences any technical issues with

Page 2 – State Survey Agency Directors

the DAB E-File System, they may contact E-File System Support at [OSDABImmediateOffice@hhs.gov](mailto:OSDABImmediateOffice@hhs.gov).

**Effective Date:** October 1, 2014. This notice should be communicated with all survey and certification staff, their managers and the State/Regional Office training coordinators within 30 days of this memorandum.

/s/

Thomas E. Hamilton

Attachments – DAB E-File Instructions and Appeal Rights Notice

cc: Survey and Certification Regional Office Management

## **How to Use the Departmental Appeals Board's Electronic Filing System (DAB E-File)**

**<https://dab.efile.hhs.gov>**

To file a new appeal using DAB E-File, you first must register a new account by: (1) clicking **Register** on the DAB E-File home page; (2) entering the information requested on the "Register New Account" form; and (3) clicking **Register Account** at the bottom of the form. If you have more than one representative handling your appeal, each representative must register separately to use DAB E-File on your behalf.

How to log-in to DAB E-File. To access DAB E-File, the e-mail address and password provided during the registration process must be entered on the **Login** screen at [https://dab.efile.hhs.gov/user\\_sessions/new](https://dab.efile.hhs.gov/user_sessions/new). A registered user's access to DAB E-File is restricted to the appeals for which s/he is a party or authorized representative.

How to file an appeal (request for hearing) in DAB E-File. After you have registered and logged-in to DAB E-File, you may file an appeal by: (A) clicking the **File New Appeal** link on the **Manage Existing Appeals** page, then at the next page clicking the **Civil Remedies Division** button; then (B) entering and uploading the requested information and documents on the form labeled "File New Appeal – Civil Remedies Division."

Basic requirements for using DAB E-File. At a minimum, the DAB's Civil Remedies Division (CRD) requires a party filing an appeal to submit the following: (1) a signed hearing request; and (2) a copy of the underlying notice letter from CMS which sets forth CMS's adverse action and the party's appeal rights. All documents must be submitted in Portable Document Format (PDF). Any document, including a hearing request, will be deemed to have been filed on the date it is submitted via DAB E-File (through 11:59 p.m. EST on the date of submission). A party filing a hearing request via DAB E-File will be deemed to have consented to receiving and accepting electronic service of appeal-related documents which CMS subsequently submits via DAB E-File and/or which the CRD subsequently submits via DAB E-File on behalf of an Administrative Law Judge. CMS also will be deemed to have consented to electronic service.

Detailed information regarding DAB E-File. More detailed instructions for using DAB E-File in cases before the DAB's Civil Remedies Division can be found by clicking the button marked **E-Filing Instructions** after logging-in to DAB E-File.

For general questions regarding the DAB E-File System, you may call the Civil Remedies Division main telephone line at 202-565-9462. If you experience any technical issues with the DAB E-File System, please contact E-File System Support at [OSDABImmediateOffice@hhs.gov](mailto:OSDABImmediateOffice@hhs.gov).

## Appeal Rights

If you disagree with this action imposed on your facility, you or your legal representative may request a hearing before an administrative law judge of the Department of Health and Human Services, Departmental Appeals Board (DAB). Procedures governing this process are set out in 42 C.F.R. 498.40, et seq. You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at <https://dab.efile.hhs.gov> no later than sixty (60) days after receiving this letter. Specific instructions on how to file electronically are attached to this notice. A copy of the hearing request shall be submitted electronically to:

### ***INSERT REGIONAL OFFICE CONTACT INFORMATION***

Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted as of October 1, 2014, unless you do not have access to a computer or internet service. In those circumstances you may call the Civil Remedies Division to request a waiver from e-filing and provide an explanation as to why you cannot file electronically or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than sixty (60) days after receiving this letter, by mailing to the following address:

Department of Health & Human Services  
Departmental Appeals Board, MS 6132  
Director, Civil Remedies Division  
330 Independence Avenue, S.W.  
Cohen Building – Room G-644  
Washington, D.C. 20201  
(202) 565-9462

A request for a hearing should identify the specific issues, findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. At an appeal hearing, you may be represented by counsel at your own expense. If you have any questions regarding this matter, please contact \_\_\_\_\_ by phone at \_\_\_\_\_ or by e-mail at \_\_\_\_\_.