



mln call

A MEDICARE LEARNING NETWORK® (MLN) EVENT

# SETTLEMENT CONFERENCE FACILITATION

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# Acronyms in this Presentation

- Office of Medicare Hearings and Appeals: OMHA
- Settlement Conference Facilitation: SCF
- Department of Health and Human Services: DHHS
- Medicare Appeals Council: Council
- Centers for Medicare & Medicaid Services: CMS
- Qualified Independent Contractor: QIC
- Low Volume Appeals Initiative: LVA



# Acronyms in this Presentation

- Hospital Appeals Settlement Program: HASP
- National Provider Identifier: NPI
- Provider Transaction Access Number: PTAN
- Personally Identifiable Information: PII
- Income Related Monthly Adjustment Amounts: IRMAA
- Medicare Administrative Contractor: MAC



# Agenda

- SCF Basics
- SCF Eligibility Requirements
- SCF Process
- SCF Reminders
- Question and Answer Session



# SCF BASICS

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# SCF Basics: What is Settlement Conference Facilitation?

- Settlement Conference Facilitation is an alternative dispute resolution process designed to bring the appellant and CMS together to discuss the potential of a mutually agreeable resolution for claims appealed to OMHA and the Council.
- If a resolution is reached, a settlement agreement is drafted and signed by the appellant and CMS. As part of the agreement, the appeals covered by the settlement will be withdrawn and dismissed.
- SCF is separate and distinct from CMS' LVA settlement option.



# SCF Basics: Who is the Settlement Conference Facilitator?

- Settlement conference facilitators are specially trained employees of OMHA.
- OMHA is a component of the HHS Office of the Secretary and is organizationally and functionally separate from CMS.



## SCF Basics: What is the Facilitator's Role?

- Uses mediation principles to assist the appellant and CMS in working toward a mutually agreeable resolution.
- Does not make official determinations on the merits of the appeals at issue and does not serve as a fact finder.
- May help the appellant and CMS see the relative strengths and weaknesses of their positions.





# SCF ELIGIBILITY REQUIREMENTS

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# SCF Eligibility Requirements: Appellant Eligibility Criteria

- The appellant must be a Medicare provider or supplier that has been assigned an NPI;
- The appellant must have 25 or more SCF eligible appeals pending at OMHA and the Council combined; or, less than 25 SCF eligible appeals pending at OMHA or the Council and at least one appeal has more than \$9,000 in billed charges;
- The appellant cannot have filed for bankruptcy and/or expect to file for bankruptcy;
- The provider or supplier must not have or have had False Claims Act litigation or investigations pending against them, or other program integrity concerns, including pending civil, criminal, or administrative investigations.



# SCF Eligibility Requirements: Appeals Eligibility Criteria

- The appeals must involve request(s) for ALJ hearing or Council review filed on or before November 3, 2017;
- The request(s) for ALJ hearing and/or Council review must arise from a Medicare Part A or Part B QIC reconsideration decision;
- All jurisdictional requirements for OMHA or Council review must be met for the eligible appeals;
- All pending OMHA and Council appeals associated with a single NPI and corresponding PTAN must be included in SCF;



# SCF Eligibility Requirements: Appeals Eligibility Criteria

- Appeals must not be scheduled for an ALJ hearing or an ALJ hearing must not have been conducted;
- The amount of each individual claim must be \$100,000 or less (for the purposes of a statistical sample, the overpayment amount extrapolated from the universe of claims must be \$100,000 or less);\*
- Appeals must not be involved in OMHA's Statistical Sampling Initiative;
- Appeals must not be actively engaged in a CMS Medicare appeals initiative that was available on or after November 3, 2017 (i.e., LVA, the QIC Demonstration Project, or the CMS Serial Claims Initiative);

\*Settlement of individual claims and extrapolated overpayment amounts between \$100,001-\$1,000,000 will be subject to U.S. Department of Justice approval



# SCF Eligibility Requirements: Appeals Eligibility Criteria

- The beneficiary must not have been found liable for the amount in controversy after the initial determination or participated in the reconsideration;
- Appeals must not involve items, services, drugs, or biologicals billed under unlisted, unspecified, unclassified, or miscellaneous healthcare codes;
- Appeals must not involve payment disputes;
  - Appeals arising from down coding of claims are eligible for SCF.
- Appeals must not arise from a QIC or ALJ dismissal order; and
- Appeals must not be beneficiary-initiated appeals of QIC reconsiderations or any appeals arising from Medicare Part C, Medicare Part D, or appeals of Social Security Administration decisions regarding entitlement, Part B late enrollment penalties, and Part B and Part D income related IRMAAs.



# SCF Eligibility Requirements: Appeals Eligibility Criteria

- Please note all appeals eligible for SCF must be included in SCF. Appellants' may not select some SCF eligible appeals for settlement and others for ALJ hearing or Council review.



# SCF Process

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# SCF Process: Requesting SCF

- Appellant submits SCF Request to the email on the request document for all pending OMHA and Council appeals associated with an NPI/PTAN.
  - The SCF Request is an OMHA document on the OMHA website.
- Important Reminders:
  - You only need to complete the “representative” section if you have an attorney representative.
  - You must complete all sections of the form. Failure to complete all sections will result in automatic rejection of your request. You can re-submit a corrected request if your request is initially rejected for failure to complete the request document properly.
  - You must provide the NPI and corresponding PTAN. Your request will be rejected without that information.
  - You must provide your organization name in the Appellant Name box.





# SCF Process: Requesting SCF

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
OFFICE OF MEDICARE HEARINGS AND APPEALS (OMHA)

## REQUEST FOR SETTLEMENT CONFERENCE FACILITATION

To request OMHA Settlement Conference Facilitation (SCF) for OMHA and/or Medicare Appeals Council (Council) appeals, you must complete this document, including the appellant name in the first box below, and submit it via e-mail. Failure to properly complete this document will result in rejection of your request for SCF.

Signatures must be made in black or blue ink. OMHA cannot accept e-signatures at this time. Please scan your *Request for SCF*, with original signatures, into PDF document.

Please send your *Request for SCF* to the following email address:

For more information on the OMHA SCF process, please visit the OMHA website at [www.hhs.gov/omha](http://www.hhs.gov/omha) or contact us at [OMHA.SCF@hhs.gov](mailto:OMHA.SCF@hhs.gov).

**Appellant Name** (the provider or supplier that appealed the QIC reconsideration):

Please note, if you are a Medicare beneficiary or a Medicaid State Agency, your claim appeals are not currently eligible for the OMHA SCF process.

Appellant Point of Contact (not necessary if represented)

Representative (Attorney name, if applicable) (must be an



# SCF Process: CMS Participation and the SCF Preliminary Notification

- The SCF Request is forwarded to CMS. CMS will have 15 calendar days to determine whether it wishes to participate in SCF with the appellant.
- Post CMS response, an SCF Spreadsheet will be created. The SCF Spreadsheet will contain all OMHA and Council appeals that OMHA and Council believe to be eligible for SCF.
  - The Spreadsheet will not contain beneficiary PII.



# SCF Process: CMS Participation and the SCF Preliminary Notification

- The SCF Preliminary Notification and SCF Spreadsheet will be issued to the appellant(s). The appellant will have 20 calendar days from receipt of the SCF Preliminary Notification to file a complete SCF Agreement of Participation package.
- The appellant agreement package must include the following items:
  - Completed SCF Agreement of Participation document
  - Completed SCF Spreadsheet: the responsibility of ensuring all claims meet SCF eligibility requirements lies with the appellant.
- An SCF Confirmation Notice is issued to all parties.



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Clipboard Font Alignment Number Styles Cells Editing WebEx

Calibri 11 Bold Italic Underline Wrap Text Merge & Center

General \$ % .00 .00 Conditional Formatting Format as Table Cell Styles

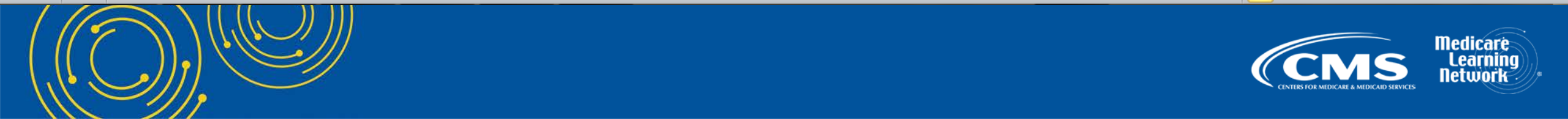
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B4 \*Part A/B appeals only

	D	E	F	G	H	I	J	K	L	M	N	O	P
2													
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Appellant must complete the columns below.

5	QIC Appeal Number	ALJ Appeal Number	Truncated HICN	# of Line Denied	Items Denied	Payer Claim Control Number	Billed Amount Denied (for OMHA reference only)	Medicaid State Agency Participation at Any Level of Appeal? (Enter "Y" for "Yes", leave blank if "No")	Post-Payment Claim? (Enter Y for "Yes", leave blank if "No")	HCPCS/DRG/RUG/Hospice/ Home Health Codes	To/From Date of Service	QIC Decision Letter Mailed Date	MAC Jurisdiction	OMHA Complete Request Received Date	ALJ Name
6															
7															



## SCF Process: SCF Express

- With SCF Express, CMS provides a settlement offer to the appellant based on preliminary data available to CMS.
- The appellant can choose to take the SCF Express offer or proceed to the actual settlement conference process.
  - An SCF Express Settlement Package will be issued to the appellant within 30 calendar days of the date of the SCF Confirmation Notice.
  - The appellant must respond (within 7 calendar days of the date on the Express Settlement Notice) by returning the signed settlement agreement or declining SCF Express to proceed to a pre-settlement conference and settlement conference.



# SCF Process: SCF Express

- Benefits of SCF Express:
  - No CMS medical review of appeals
  - Faster resolution as there are no conferences



# SCF Process: SCF Conferences

- OMHA facilitates Pre-Settlement Conference Call between all parties
- OMHA facilitates Settlement Conference between all parties



# SCF Process: Completing the SCF Process

- If an agreement is reached:
  - The OMHA facilitators will draft a settlement agreement in accordance with the instructions of all of the parties.
  - CMS and the appellant will sign the settlement agreement. The appellant must sign the agreement at the settlement conference session.





# SCF Process: Completing the SCF Process

- If an agreement is reached:
  - The fully executed settlement agreement serves as your dismissal order. You will not receive a separate dismissal order.
  - CMS MACs will effectuate the settlement agreement.



## SCF Process: Completing the SCF Process

- If the an agreement is not reached, the appealed claims will be returned to their prior place in OMHA or the Council's docket:
  - If the appeal(s) was assigned to an adjudicator, it will return to the same adjudicator.
  - If the appeal(s) was not assigned to an adjudicator, it will return to its original place in the queue for assignment (based on the date the request for review was received.)



# SCF Reminders

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## SCF Reminders

- SCF is a payment negotiation process, similar to negotiating a home sale or car purchase. If you desire to discuss application of law and policy or evaluate each appeal on its merits, SCF is not the appropriate forum for your appeals.
- Once you decline SCF Express, the SCF Express offer percentage is expired. Additionally, there is no guarantee you will receive the percentages associated with CMS settlement initiatives like LVA or HASP.



## SCF Reminders

- Opening remarks in settlement conferences are not the same as opening statements in a hearing. Both parties should provide brief remarks (5 minutes or less).
- Although you cannot pick and choose which appeals go to SCF and which go to OMHA/Council for review, it is the appellant's responsibility to ensure all appeals meet SCF eligibility criteria.



## SCF Reminders

In previous iterations of SCF and other CMS initiatives, appellants could work with an adjudicator to postpone a hearing so that the appeal could be settled. This practice will no longer continue in SCF.

As of June 1, 2018, if an appeal is scheduled for hearing or the appeal was already heard by an adjudicator, the appeal is ineligible for SCF.



## SCF Reminders

Please visit our website as all information related to SCF, including a detailed Frequently Asked Questions and all SCF request documents can only be found on OMHA's website:

- [hhs.gov/omha](https://www.hhs.gov/omha)



# Question & Answer Session

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