

<b>CMS Manual System</b>	<b>Department of Health &amp; Human Services (DHHS)</b>
<b>Pub 100-04 Medicare Claims Processing</b>	<b>Centers for Medicare &amp; Medicaid Services (CMS)</b>
<b>Transmittal 1437</b>	<b>Date: February 5, 2008</b>
	<b>Change Request 5897</b>

**SUBJECT: Change in the Amount in Controversy Requirement for Administrative Law Judge Hearings and Federal District Court Appeals**

**I. SUMMARY OF CHANGES:** This change request (CR) notifies contractors of an increase in the amount in controversy required to sustain an administrative law judge hearing and Federal District Court appeal rights beginning January 1, 2008.

**NEW / REVISED MATERIAL**

**EFFECTIVE DATE: JANUARY 1, 2008**

**IMPLEMENTATION DATE: MAY 5, 2008**

*Disclaimer for manual changes only: The revision date and transmittal number apply only to red italicized material. Any other material was previously published and remains unchanged. However, if this revision contains a table of contents, you will receive the new/revised information only, and not the entire table of contents.*

**II. CHANGES IN MANUAL INSTRUCTIONS: (N/A if manual is not updated)**

**R=REVISED, N=NEW, D=DELETED**

<b>R/N/D</b>	<b>CHAPTER / SECTION / SUBSECTION / TITLE</b>
<b>R</b>	29/330.1/Right to an ALJ Hearing
<b>R</b>	29/345.1/Requests for U.S. District Court Review by a Party

**III. FUNDING:**

**SECTION A: For Fiscal Intermediaries and Carriers:**

No additional funding will be provided by CMS; contractor activities are to be carried out within their operating budgets.

**SECTION B: For Medicare Administrative Contractors (MACs):**

The Medicare administrative contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the contracting officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the contracting officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

**IV. ATTACHMENTS:**

**Business Requirements**

**Manual Instruction**

*\*Unless otherwise specified, the effective date is the date of service.*

# Attachment - Business Requirements

Pub. 100-04	Transmittal: 1437	Date: February 5, 2008	Change Request: 5897
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**SUBJECT: Change in the Amount in Controversy Requirement for Administrative Law Judge Hearings and Federal District Court Appeals.**

**Effective Date: January 1, 2008**

**Implementation Date: May 5, 2008**

## I. GENERAL INFORMATION

**A. Background:** The Medicare claims appeal process was amended by the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA). This change request (CR) modifies Pub. 100-4, chapter 29, §330.1 and §345.1 to update the amount in controversy (AIC) required for an Administrative Law Judge (ALJ) hearing or judicial court review.

**B. Policy:** The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 provides for annual reevaluation, beginning in 2005, of the dollar amount in controversy required for an ALJ hearing and Federal District Court review.

## II. BUSINESS REQUIREMENTS TABLE

*Use "Shall" to denote a mandatory requirement*

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A / B	D M E	F I	C A R R I E R	R H I	Shared-System Maintainers				OTHER
		M A C	M A C				F I S S	M C S	V M S	C W F	
5897.1	Contractors shall notify providers of the change in the dollar amount for an Administrative Law Judge (ALJ) hearing or Federal District Court review.	X	X	X	X	X					

## III. PROVIDER EDUCATION TABLE

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A / B	D M E	F I	C A R R I E R	R H I	Shared-System Maintainers				OTHER
		M A C	M A C				F I S S	M C S	V M S	C W F	
5897.2	A provider education article related to this instruction will be available at <a href="http://www.cms.hhs.gov/MLNMattersArticles/">http://www.cms.hhs.gov/MLNMattersArticles/</a> shortly after the CR is released. You will receive notification of the article release via the established "MLN Matters" listserv.  Contractors shall post this article, or a direct link to this article, on their Web site and include information about it in a listserv message within one week of the availability of the provider education article. In	X	X	X	X	X					

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A / B  M A C	D M E  M A C	F I    	C A R R I E R	R H I    	Shared-System Maintainers				OTHER
							F I S S	M C S	V M S	C W F	
	addition, the provider education article shall be included in your next regularly scheduled bulletin. Contractors are free to supplement MLN Matters articles with localized information that would benefit their provider community in billing and administering the Medicare program correctly.										

**IV. SUPPORTING INFORMATION**

**Section A: For any recommendations and supporting information associated with listed requirements, use the box below:**

Use "Should" to denote a recommendation.

X-Ref Requirement Number	Recommendations or other supporting information:
N/A	N/A

**Section B: For all other recommendations and supporting information, use this space:**

N/A

**V. CONTACTS**

**Pre-Implementation Contact(s):** Kathleen McCracken, Kathleen.McCracken@cms.hhs.gov

**Post-Implementation Contact(s):** Kathleen McCracken, Kathleen.McCracken@cms.hhs.gov

**VI. FUNDING**

**Section A: For Fiscal Intermediaries (FIs), Carriers, and Regional Home Health Carriers (RHHs) use only one of the following statements:** No additional funding will be provided by CMS; contractor activities are to be carried out within their operating budgets.

**Section B: For Medicare Administrative Contractors (MACs), use the following statement:** The Medicare administrative contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the contracting officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the contracting officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

### **330.1 - Right to an ALJ Hearing**

*(Rev.1437, Issued: 02-05-08. Effective: 01-01-08, Implementation: 05-05-08)*

There are three situations where a party can request a hearing before an ALJ: (1) A party to a QIC reconsideration may request a hearing before an ALJ if the party files a written request for an ALJ hearing within 60 days after receipt of the notice of the QIC's reconsideration and the amount in controversy requirement is met\*; (2) A party who files a timely appeal before a QIC and whose appeal continues to be pending before a QIC at the end of the QIC's decision-making timeframe has a right to a hearing before an ALJ if the party files a written request with the QIC to escalate the appeal to the ALJ level after the adjudication period expires and the QIC does not issue a final action within 5 days of receiving the request for escalation. A party wishing to escalate an appeal must also meet the amount in controversy requirement\*; and (3) A party to a QIC's dismissal of a request for reconsideration has a right to have the dismissal reviewed by an ALJ if the party meets the amount in controversy requirement\*.

*The amount remaining in controversy requirement for ALJ hearing requests made before January 1, 2008 is \$110. The amount remaining in controversy requirement for requests made on or after January 1, 2008 is \$120.*

\* For requests made for an ALJ hearing or judicial court review, the dollar amount in controversy requirement is increased by the percentage increase in the medical care component of the consumer price index for all urban consumers (U.S. city average) for July 2003 to the July preceding the year involved. Any amount that is not a multiple of \$10 will be rounded to the nearest multiple of \$10. The amount will be computed annually and CMS will notify the Medicare contractors of the new amount.

### **345.1 - Requests for U.S. District Court Review by a Party**

*(Rev.1437, Issued: 02-05-08. Effective: 01-01-08, Implementation: 05-05-08)*

Following issuance of a decision by the DAB, a party may request court review of the DAB's decision. A contractor cannot accept requests for court review. The appellant must file the complaint with the U.S. District Court. If a party files a request for court review with a contractor, the contractor must instruct the appellant to re-file with the U.S. District Court. The amount remaining in controversy for requests made on or after January 1, 2007 increased to \$1,130. *The amount remaining in controversy for requests made on or after January 1, 2008 is \$1,180.*

If a contractor receives, either directly or by copy, a summons or complaint due to a party's request for U.S. District Court review, and it does not appear that a copy was sent to the following address, the contractor shall send the original to:

Department of Health and Human Services  
General Counsel  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

The contractor retains a copy and notifies its RO immediately.