

## CMS Authorizes Medicare Appeals by Fax and Secured Internet



**(November 21, 2010):** Earlier this year, the Centers for Medicare and Medicaid Services (CMS) issued Change Request (CR) 6958, titled *“Guidelines to Allow Contractors to Develop and Utilize Procedures for Accepting and Processing Appeals Via Facsimile and/or Via a Secure Internet Portal/Application.”* Health care providers and their counsel welcomed the guidance, anticipating that this change would make it easier when filing Medicare appeals by fax instead of the traditional methods when filing requests for redetermination and reconsideration.

To its credit, CMS authorized Part A and Part B Medicare Administrative Contractors (MACs), Durable Medical Equipment MACs, Fiscal Intermediaries, Carriers and Regional Home Health Intermediaries (RHHIs) to accept administrative appeals by facsimile and / or secured internet transmission. However, CMS made this change optional -- at the discretion of the contractor. **CMS did not require (at least for now) that contractors implement this change.** Nor did CMS provide additional funding for contractors desiring to allow providers to file administrative appeals in this fashion.

Many health care providers around the country have experienced difficulty quickly and appropriately responding to pre-payment review actions and extrapolated post-payment audits conducted by Zone Program Integrity Contractors (ZPICs). As Recovery Audit Contractors (RACs) work their way down the provider chain, these pressures will undoubtedly increase. The option to file an administrative appeal by facsimile or secured internet transmission would significantly assist health care providers, by both reducing filing costs (e.g. FedEx / USPS expenses) and by providing providers with options for handling appeals that must be immediately filed in order to meet applicable deadlines.

To date, few contractors have chosen to allow health care providers to file administrative appeals by facsimile or secured internet transmission. For example, TrailBlazer serves as the Part A and Part B MAC for providers in Texas. Over the last year, providers in South Texas have been increasingly subjected to site visits, Medicare number revocation actions, pre-payment reviews and post-payment audits. Earlier this month, TrailBlazer released updated guidance covering the

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administrative appeals process for use by providers in its MAC region. Unfortunately, TrailBlazer confirmed its position in this regard, expressly stating **“At this time, redeterminations may not be faxed to TrailBlazer.”** Hopefully, the filing of Medicare appeals by fax and secured e-mail will be permitted by TrailBlazer in the near future.

As set out in CR 6958, CMS requires that contractors choosing to accept administrative Medicare appeals by fax and secured e-mail abide by a number of requirements covering the handling of appeals filed in this fashion.



**Liles Parker attorneys represent a wide variety of health care providers in Medicare administrative overpayment cases around the country. Should you have questions regarding a Medicare audit of your Physician Practice, Clinic, Home Health Agency, Hospice, or DME Company, give us a call for a complimentary consultation. Mr. Liles can be reached at 1 (800) 475-1906.**