



**DEPARTMENT OF HEALTH & HUMAN SERVICES**

Office of the Secretary

Departmental Appeals Board  
Appellate Division, MS 6127  
Room G-644, Cohen Building  
330 Independence Avenue, SW  
Washington, D.C. 20201

**April 30, 2021**

**BY DAB E-FILE**

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and

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Washington, D.C. 20201

**Board Docket No. A-21-53**

**ACKNOWLEDGMENT OF NOTICE OF APPEAL**

Appellant	: Arkansas Department of Human Services
Notice filed by	: Asher Steinberg
Dated	: April 16, 2021
Appeal from decision of	: Centers for Medicare & Medicaid Services
Date of appealed decision	: March 17, 2021
Statute/program	: 42 U.S.C. § 1315/Medicaid
Presiding Board Member	: Susan S. Yim
Board attorney contact	: Ken Veilleux (202) 565-0130 (phone) (202) 565-0238 (FAX) ken.veilleux@hhs.gov

The notice of appeal described above has been received by the Departmental Appeals Board.

This letter summarizes the next procedural steps in this case. For further details about Board procedures, please see the regulations at 45 C.F.R. Part 16 (available at

<http://www.ecfr.gov/>) and the Appellate Division Practice Manual at <http://www.hhs.gov/dab/divisions/appellate/practicemanual/manual.html>.

All submissions in this case should refer to the Appellate Division docket number.

**When it receives this letter**, the Centers for Medicare & Medicaid Services (respondent) should send a notice to the Arkansas Department of Human Services (appellant) and to the Board stating the name, address and telephone number of its representative. The appellant should provide the same information if someone other than the person who signed the notice of appeal will be its representative.

**Within 30 days after receiving this letter**, the appellant should submit a written statement of its arguments concerning why the appealed decision is wrong (appellant's brief). The appellant should also submit copies of the documents on which its arguments are based (appellant's appeal file). *See* 45 C.F.R. § 16.8(a) and the instructions below for preparing appeal files.

**Within 30 days after receiving the appellant's brief and appeal file**, the respondent should submit its brief and supplement the appeal file. 45 C.F.R. § 16.8(b).

**Within 15 days after receiving the respondent's submission**, the appellant may submit a reply brief. 45 C.F.R. § 16.8(c). Upon expiration of the time for submitting a reply, the Board may close the record and proceed to decision without further notice to the parties.

**The briefs described above are subject to the following page limits, unless the Board grants a motion to increase the number of pages:** appellant's brief – no more than 40 pages; respondent's brief – no more than 40 pages; appellant's reply brief – no more than 20 pages. If typed, the brief should be double-spaced and the font size should be no less than 12. Cover letters and attachments are not included in the page count.

Since the appellant has submitted its notice of appeal electronically using DAB E-File, both parties should make all future submissions by that method and will be deemed to have consented to accept electronic service of appeal-related documents via DAB E-File (including documents from the Board). A document will be deemed to be filed with the Board on a given day if it is uploaded to DAB E-File on or before 11:59 p.m. eastern time of that day.

Before contacting the Board to request an extension of time to make a required submission, you should ask the other party's representative if there is an objection.

Departmental Appeals Board decisions are accessible at <http://www.hhs.gov/dab/decisions/index.html>. DAB decisions are also available by subscription from WESTLAW (in the Federal Health Law database, identifier FHTH-HHS), LEXIS-

NEXIS (in the Health library, file HHSDAB), and other on-line sources. DAB decisions appearing in these sources may be paginated differently from the original, signed decision or have no page numbers. If you cite a decision by page number, please put the source in parentheses, or note the relevant section or subsection of the decision if no page number is available.

In preparing your appeal files, please note the following:

- The Board may decide the case based solely on the submissions described above. The appeal files should therefore include all documents which would assist the Board in making findings of fact on disputed issues, as well as documents which provide necessary background information.
- The parties need not provide documents to establish any material facts that they stipulate are undisputed.
- All exhibits in the appeal file should be accompanied by an index. A party should assign each exhibit a unique number or letter and continue the same numbering or lettering sequence for any documents submitted later. Paper-filed exhibits should be tabbed. Exhibits uploaded to DAB E-File should be given a file name that includes the exhibit number. All exhibit pages should be numbered.
- Copies of materials such as the legislative history of a statute, preamble to the regulation, or statements of Agency policy should be included where relevant.
- Do not include duplicative material such as copies of documents the Board has issued or documents which you or the other party have already provided to the Board.
- All documents submitted as part of an appeal are public records. **Before submitting documents to the Board**, you should delete information the disclosure of which might violate state or other confidentiality or privacy requirements. If this information is needed in order to resolve disputed issues, please leave some information intact (such as initials or Medicaid numbers instead of the full names of recipients or patients).
- The Board's procedures do not provide for a formal discovery step. However, parties sometimes need additional information to fairly present their cases. The parties should cooperate in sharing information. You should first request any information you need from the other party. If this fails, you should seek a discovery order from the Board as early as possible.

ALTERNATIVE DISPUTE RESOLUTION: Although the appeal is now pending, the parties may negotiate to resolve the dispute informally. The Board will assist in any way appropriate, and can provide alternative dispute resolution services such as mediation or early neutral evaluation. For information on these services, see <http://www.hhs.gov/dab/divisions/adr/index.html> or call the Director of Mediation Services at (202) 565-0118.

By direction of the Presiding Board Member.

*/s/ Ken Veilleux*

Ken Veilleux  
DAB Staff Attorney

cc: Deputy Assistant IG for Auditing  
Office of the Inspector General

Chief Counsel  
DHHS - Region VI

Administrator  
Centers for Medicare & Medicaid Services

Office of Financial Management, CMS

Center for Medicaid and CHIP Services, CMS