

Proceedings covered	Statutory authority	Applicable regulations
4. Proceedings before the Provider Reimbursement Review Board when Department employees appear as counsel for the intermediary.	42 U.S.C. 1395oo	42 CFR Part 405, Subpart R.
5. Appeals of CMS determinations that an intermediate care facility for the mentally retarded (ICFMR) no longer qualifies as an ICFMR for Medicaid purposes.	42 U.S.C. 1396i	42 CFR Part 498.
6. Proceedings to impose civil monetary penalties, assessments, or exclusions from Medicare and State health care programs.	42 U.S.C. 1395i–3(h)(2)(B)(ii); 1395j(q)(2)(B)(i); 1395m(a)(11)(A), (c)(4)(C); 1395w–2(b)(2)(A); 1395w–4(g)(1), (g)(3)(B), (g)(4)(B)(ii); 1395nn(g)(5); 1395ss(a)(2), (p)(8), (p)(9)(C), (q)(5)(C), (r)(6)(A), (s)(3), (t)(2); 1395bbb(f)(2)(A); 1396r(h)(3)(C)(ii); 1396–8(b)(3)(B), (C)(ii); 1396t(j)(2)(C); 1396u(h)(2).	42 CFR Part 1003.
7. Appeals of exclusions from Medicare and State health care programs and/or other programs under the Social Security Act.	42 U.S.C. 1395j(q)(2)(B)(ii); 1395m(a)(11)(A), (c)(5)(C); 1395w–4(g)(1), (g)(3)(B), (g)(4)(B)(ii).	42 CFR Part 498; 42 CFR 1001.107.

Food and Drug Administration

1. Proceedings to withdraw approval of new drug applications.	21 U.S.C. 355(e)	21 CFR Part 12; 21 CFR 314.200.
2. Proceedings to withdraw approval of new animal drug applications and medicated feed applications.	21 U.S.C. 360b(e), (m)	21 CFR Part 12; 21 CFR Part 514, Subpart B.
3. Proceedings to withdraw approval of medical device premarket approval applications.	21 U.S.C. 306e(e), (g)	21 CFR Part 12.

Office for Civil Rights

1. Proceedings to enforce Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color or national origin by recipients of Federal financial assistance.	42 U.S.C. 2000d–1	45 CFR 80.9.
2. Proceedings to enforce section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of handicap by recipients of Federal financial assistance.	29 U.S.C. 794a; 42 U.S.C. 2000d–1 ..	45 CFR 84.61.
3. Proceedings to enforce the Age Discrimination Act of 1975, which prohibits discrimination on the basis of age by recipients of Federal financial assistance.	42 U.S.C. 6104(a)	45 CFR 91.47.
4. Proceedings to enforce Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in certain education programs by recipients of Federal financial assistance.	20 U.S.C. 1682	45 CFR 86.71.

[69 FR 2847, Jan. 21, 2004]

PART 15—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS

AUTHORITY: Sec. 213, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91–646, 84 Stat. 1894 (42 U.S.C. 4633) as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, Title IV of Pub. L. 100–17, 101 Stat. 246–256 (42 U.S.C. 4601 note).

§ 15.1 Uniform relocation assistance and real property acquisition.

Regulations and procedures for complying with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91–646, 84 Stat. 1894, 42 U.S.C. 4601 *et seq.*), as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Title IV of Pub. L. 100–17, 101 Stat. 246–256, 42 U.S.C. 4601 note) are set forth in 49 CFR part 24.

[52 FR 48026, Dec. 17, 1987 and 54 FR 8912, Mar. 2, 1989]

PART 16—PROCEDURES OF THE DEPARTMENTAL GRANT APPEALS BOARD

- Sec.
- 16.1 What this part does.
- 16.2 Definitions.
- 16.3 When these procedures become available.
- 16.4 Summary of procedures below.
- 16.5 How the Board operates.
- 16.6 Who represents the parties.
- 16.7 The first steps in the appeal process: The notice of appeal and the Board's response.
- 16.8 The next step in the appeal process: Preparation of an appeal file and written argument.
- 16.9 How the Board will promote development of the record.
- 16.10 Using a conference.
- 16.11 Hearing.
- 16.12 The expedited process.
- 16.13 Powers and responsibilities.
- 16.14 How Board review is limited.
- 16.15 Failure to meet deadlines and other requirements.
- 16.16 Parties to the appeal.
- 16.17 Ex parte communications (communications outside the record).
- 16.18 Mediation.
- 16.19 How to calculate deadlines.
- 16.20 How to submit material to the Board.
- 16.21 Record and decisions.
- 16.22 The effect of an appeal.
- 16.23 How long an appeal takes.

APPENDIX A TO PART 16—WHAT DISPUTES THE BOARD REVIEWS

AUTHORITY: 5 U.S.C. 301 and secs. 1, 5, 6, and 7 of Reorganization Plan No. 1 of 1953, 18 FR 2053, 67 Stat. 631 and authorities cited in the Appendix.

SOURCE: 46 FR 43817, Aug. 31, 1981, unless otherwise noted.

§ 16.1 What this part does.

This part contains requirements and procedures applicable to certain disputes arising under the HHS programs described in Appendix A. This part is designed to provide a fair, impartial, quick and flexible process for appeal from written final decisions. This part supplements the provisions in part 74 of this title.

§ 16.2 Definitions.

(a) *Board* means the Departmental Grant Appeals Board of the Department of Health and Human Services. Reference below to an action of *the Board* means an action of the Chair, an-

other Board member, or Board staff acting at the direction of a Board member. In certain instances, the provisions restrict action to particular Board personnel, such as the Chair or a Board member assigned to a case.

(b) Other terms shall have the meaning set forth in part 74 of this title, unless the context below otherwise requires.

§ 16.3 When these procedures become available.

Before the Board will take an appeal, three circumstances must be present:

(a) The dispute must arise under a program which uses the Board for dispute resolution, and must meet any special conditions established for that program. An explanation is contained in appendix A.

(b) The appellant must have received a final written decision, and must appeal that decision within 30 days after receiving it. Details of how final decisions are developed and issued, and what must be in them, are contained in 45 CFR 74.304.

(c) The appellant must have exhausted any preliminary appeal process required by regulation. For example, see 42 CFR part 50 (subpart D) for Public Health Service programs. In such cases, the *final written decision* required for the Board's review is the decision resulting from the preliminary review or appeal process. Appendix A contains further details.

[46 FR 43817, Aug. 31, 1981, as amended at 62 FR 38218, July 17, 1997]

§ 16.4 Summary of procedures below.

The Board's basic process is review of a written record (which both parties are given ample opportunity to develop), consisting of relevant documents and statements submitted by both parties (see §16.8). In addition, the Board may hold an informal conference (see §16.10). The informal conference primarily involves questioning of the participants by a presiding Board member. Conferences may be conducted by telephone conference call. The written record review also may be supplemented by a hearing involving an opportunity for examining evidence and witnesses, cross-examination, and oral argument (see §16.11). A hearing is