

# County Medical Services (CMS) Program Guide (PG) Letter #33

October 16, 2014

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**Subject**                    **CONDITIONAL WITHDRAWAL (CWD)/OUT OF HEARING RESOLUTION (OHR) PROCEDURES FOR COUNTY MEDICAL SERVICES (CMS) COUNTY HEARINGS**

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**Effective**                Upon receipt.

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**Reference**              County Policy

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**Purpose**                 To provide instructions for the Conditional Withdrawal (CWD)/Out of Hearing Resolution (OHR) process for County Hearings.

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**Background**         State public assistance programs (such as CalWORKs, CalFresh and Medi-Cal) have a CWD/OHR process. This process does not exist for CMS.

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**Highlighted Change**      CWD/OHR process has been added for CMS County Hearings to:

- Provide a faster resolution when a case action is incorrect.
- Reduce the number of CMS County hearing requests that need to go to a hearing.

An Appeals Representative (not a Hearing Officer) will be assigned to conduct a pre-hearing review of the CMS case.

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**Required Action**        Appeals Section

The assigned Appeals Representative will review the CMS case within one work day of the receipt of the hearing request and will follow the requirements outlined in [CMSPG 12.02.01E](#).

CMS Eligibility Locations

The CMS worker must comply with an OHR (CWD) within 30 days of the date the CWD was signed as outlined in [CMSPG 12.02.01E](#).

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# County Medical Services (CMS) Program Guide (PG) Letter #33, Continued

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**Automation Impact** No impact.

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**Forms Impact** No impact.

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**Scanning Impact** No impact.

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**Access Impact** No impact.

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**Appeals Impact** Appeals will follow the process as stated in this letter.

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**Quality Control (QC) Impact** QC will cite the appropriate error on any case that does not comply with the requirements outlined in this letter.

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**Summary of Changes** The table below shows the changes to the CMSPG.

<b>Section</b>	<b>Changes</b>
<a href="#">12.02</a>	<ul style="list-style-type: none"><li>• Updated the Table of Contents</li><li>• Added the CWD/OHR requirements</li><li>• Item sections renumbered</li></ul>

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**Approval for Release**

*Art Whinn, 10-16-14*

# Article 12 Section 02 County Administrative Hearings

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CMSPG Letter 33 (10/14)

## 12.02.01 County Administrative Hearings

**12.02.01E  
Appeals  
Pre-Hearing  
Case Review**

**A. Appeals Section**

Appeals Representative

The case is assigned to an Appeals Representative (who is not the County Hearing Officer) within 1 work day of the date of receipt of the hearing request.

If the case action is...	And the Appeals Representative	Then the...
Incorrect,	Receives approval from the applicant/beneficiary or AR for a Conditional Withdrawal (CWD),	Appeals Representative: <ul style="list-style-type: none"> <li>• Prepares the Out of Hearing Resolution (OHR) form;</li> <li>• Forwards the OHR form to the CMS eligibility location for processing; and</li> <li>• Cancels the scheduled hearing.</li> </ul>

	Is unable to reach the applicant/beneficiary or AR, or the applicant/beneficiary or AR does not agree to a CWD,	<ul style="list-style-type: none"> <li>• Hearing remains scheduled;</li> <li>• Potential County witnesses are notified of the date and time of the scheduled hearing; and</li> <li>• County witnesses are noted in the Appeals case file.</li> </ul>
Determined to be correct,	N/A	

The OHR form is used to communicate instructions to the worker. The form explains why the case action(s) is being modified, the action(s) required and the regulations and/or policies involved.

## B. CMS Eligibility Location

### Compliance

Compliance with the OHR must be completed within 30 work days from the signed CWD. The worker notifies Appeals when the OHR is complete. When the worker is unable to comply by the due date indicated on the OHR, the worker must:

- Contact the Appeals Representative prior to the OHR due date to request an extension; and
- Document in case comments all efforts made to comply and reasons why extension is requested.

### Disagreement with OHR Resolution

The table below shows the actions required when there is a disagreement in the action directed in the OHR, as well as who is responsible for that action.

Step	Who	Action
1	Worker	Resolve the disagreement within 5 work days. Day one of the 5 work days begins on the work day following the receipt of the OHR notice. These 5 work days are included in the 30 days that the worker has to complete the OHR.
2		Review the case with the supervisor to ensure consensus.
3	CMS Eligibility Location Appeals Liaison	Contact the Appeals Representative to discuss and resolve when the worker has new

		information or believes the OHR is incorrect.						
4	CMS Eligibility Location Manager	Contact the Appeals Manager within the first 5 work days to request a formal review of the Appeals action by the Appeals Manager or their designee if the issue is not resolved.						
5	<table border="1"> <thead> <tr> <th>If the decision is ...</th> <th>Then the ...</th> </tr> </thead> <tbody> <tr> <td>Not reversed,</td> <td>Worker must comply with the OHR within the original 30-day timeline.</td> </tr> <tr> <td>Reversed,</td> <td>Appeals Representative must send a new adequate NOA to the applicant/beneficiary or AR explaining that the County has reversed the CWD/OHR and cite the appropriate regulations and the underlying basis again with the appropriate regulations.</td> </tr> </tbody> </table>		If the decision is ...	Then the ...	Not reversed,	Worker must comply with the OHR within the original 30-day timeline.	Reversed,	Appeals Representative must send a new adequate NOA to the applicant/beneficiary or AR explaining that the County has reversed the CWD/OHR and cite the appropriate regulations and the underlying basis again with the appropriate regulations.
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