

# MEDICARE PART A BULLETIN

June 17, 1998

General Medicare Bulletin G-338

TO: All Participating Providers

FROM: Program Relations

SUBJECT: **IMPLEMENTATION OF COURT ORDER IN NATIONAL MEDICAL CARE  
(NMC) V. SHALALA**

**ATTENTION MEDICARE BUSINESS OFFICE MANAGER:** Please distribute to all appropriate health care personnel.

On January 9, 1998, the Court issued a memorandum and an interlocutory order in National Medical Care v. Shalala. Essentially, the Court barred the Health Care Financing Administration (HCFA) from requiring plaintiff to apply HCFA's April 24, 1995, clarification of its interpretation of the Omnibus Budget Reconciliation Act of 1993 change in the Medicare Secondary Payer (MSP) End Stage Renal Disease (ESRD) provision to services provided on or after August 10, 1993, and prior to April 24, 1995. This bulletin advises providers and suppliers of the decision that HCFA has made regarding implementation of this interlocutory order.

HCFA had previously extended until December 31, 1997, the time period during which initial claims for services, provided between August 10, 1993, and April 23, 1995, and related to the issue in this case, must be filed. Claims related to the issue are those that involve services that were provided to Medicare beneficiaries who: (a) were entitled on the basis of ESRD as well as age or disability; (b) had GHP coverage at the time the services were provided; and (c) received the services during their first 18 months of entitlement based on ESRD.

The time period for providers and suppliers to file claims for services provided between August 10, 1993, and April 23, 1995, related to the issue in the NMC case will not be extended further at this time. (HCFA never extended timely filing for services provided after April 23, 1995.) In addition, Medicare will not reopen, at this time, any claims for services provided between August 10, 1993, and April 23, 1995, where the basis for the requested reopening is related to the issue in the NMC case. Following ultimate disposition of this case, HCFA will afford all providers and suppliers an opportunity to submit initial claims affected by the ultimate orders in this case, and will provide further guidance on reopening claims.

Questions regarding this bulletin may be addressed to the Medicare Part A Customer Service Department by calling (904) 355-8899.