1VAC55-20-90. Appeals.

A. The director of the department shall be the final arbiter of any disputes arising under this chapter. The director may not re-delegate this authority other than to an independent hearing officer.

All disputes arising under this chapter shall be submitted to the department, which shall have the responsibility for interpreting and administering this chapter. All disputes shall be made in writing in such manner as may be reasonably required by the department and shall set forth the ~~facts which~~facts, which the applicant believes to be sufficient to entitlement to relief hereunder. The department may adopt forms for such submissions in which case all appeals shall be filed on such forms.

B. Appeals not filed within the time frames established herein shall be~~-~~ denied.

Requests for review of procurements under the provisions of the VPPA shall be filed within 10 days of the department's notice of intent to award a contract. Requests for relief from local employers or state agencies with respect to any action of the department other than a procurement shall be filed within 30 days of the action grieving the applicant. Requests for relief from state or local employees with respect to any action of the department other than a procurement shall be filed within 60 days of the action grieving the employee. ~~Medical appeals, to be accepted into the review process, must entail a liability of at least $300.00 to the appellant or covered family member.~~

C. Upon receipt by the department for a request for review under this section, it shall determine all facts which are necessary to establish the right of an applicant for relief. The department shall approve, deny or investigate any and all disputes arising hereunder. Upon request, the department will afford the applicant the right of a hearing with respect to any finding of fact or determination related to any claim under this section. In the event of an adverse decision by the department, the applicant shall be notified of such decision as hereinafter provided. Reviews for treatment authorizations or medical claims that have been denied will be sent to an impartial health entity. The impartial health entity shall examine the final denial of claims or treatment authorizations to determine whether the decision is objective, clinically valid, and compatible with established principles of health care. The decision of the impartial health entity shall (i) be in writing, (ii) contain findings of fact as to the material issues in the case and the basis for those findings, and (iii) be final and binding if consistent with law and policy. Medical appeals, to be accepted into the review process must entail a liability of at least $300.00 to the appellant or covered family member.

D. The applicant shall be notified in writing of any adverse decision with respect to his claim within 90 days after its submission. The notice shall be written in a manner calculated to be understood by the applicant and shall include:

1. The specific reason or reasons for the denial;

2. Specific references to law, this chapter, contracts awarded pursuant to this chapter, or the Health Insurance Manual/Local Administrative Manual and related instructions on which the denial is based;

3. A description of any additional material or information necessary to the applicant to perfect the claim and an explanation why such material or information is necessary; and

4. An explanation of the review process.

If special circumstances require an extension of time for processing an initial application, the department shall furnish written notice of the extension and the reason therefore to the applicant before the end of the initial 90-day period. In no event shall such extension exceed 90 days.

E. Standards, credentials, and qualifications of the impartial health entity.

1. In order to qualify to perform either standard or expedited external reviews pursuant to this chapter of the Code of Virginia, an impartial health entity shall have and maintain written policies and procedures that govern all aspects of the standard and expedited external review processes that include, at a minimum:

a. A quality assurance mechanism in place that ensures that:

(i) external reviews are conducted within the specified time frames and required notices are provided in a timely manner; (ii) the selection of qualified and impartial clinical peer reviewers to conduct external reviews on behalf of the impartial health entity and suitable matching of reviewers to specific cases; and (iii) the confidentiality of medical records is maintained in accordance with the confidentiality and disclosure laws of the Commonwealth and/or the Health Insurance Portability and Accountability Act.

2. All clinical peer reviewers assigned by an impartial health entity to conduct external reviews shall be physicians or other appropriate health care providers who meet the following minimum qualifications:

a. Be an expert in the treatment of the covered person's medical condition that is the subject of the external review;

b. Be knowledgeable about the recommended health care service or treatment through recent or current actual clinical experience treating patients with the same or similar medical conditions as the covered person's;

c. Hold a nonrestricted license in a state of the United States and, for physicians, a current certification by a recognized American medical specialty board in the area or areas appropriate to the subject of the external review; and

d. Have no history of disciplinary actions or sanctions, including loss of staff privileges or participation restrictions, that have been taken or are pending by any hospital, governmental agency or unit, or regulatory body that raise a substantial question as to the clinical peer reviewer's physical, mental or professional competence or moral character.

3. An impartial health entity shall not be affiliated with or a subsidiary of nor be owned or controlled by a health plan, a trade association of health plans, or a professional association of health care providers.

4. In order to qualified to perform an external review of a specified case pursuant to this chapter, neither the impartial health entity selected to conduct the external review nor any clinical peer reviewer assigned by the impartial health entity to conduct the external review may have a material professional, familial or financial conflict of interest with any of the following:

a. The utilization review entity that made the final adverse decision that is the subject of the external review;

b. The covered person whose treatment is the subject of the external review;

c. Any officer, director or management employee of the utilization review entity that made the final adverse decision which is the subject of the external review;

d. The health care provider, the health care provider's medical group or independent practice association recommending the health care service or services subject to the external review;

e. The facility at which the recommended health care service was or would be provided; or

f. The developer or manufacturer of the principal drug, device, procedure or other therapy being recommended for the covered person whose treatment is the subject of the external review.

5. In determining whether an independent review organization or a clinical peer reviewer of the impartial health entity has a material, professional, familial or financial conflict of interest, the director may take into consideration situations where the impartial health entity to be assigned to conduct an external review of a specified case or a clinical peer reviewer to be assigned by the impartial health entity to conduct an external review of a specified case may have an apparent professional, familial or financial relationship or connection with a person , but the characteristics of that relationship or connection are such that they are not a material professional, familial or financial conflict of interest sufficient to disqualify the impartial health entity or the clinical peer reviewer from conducting the external review.

Statutory Authority

Statutory Authority

§§ 2.2-2818 B (4) of the Code of Virginia.

Historical Notes

Derived from VR525-01-02 §1.9; eff. November 21, 1990.