

## Chapter 12

## Section 1

### General

Revision:

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#### **1.0 PURPOSE OF APPEAL PROCESS**

An appeal under TRICARE is an administrative review of program determinations made under the provisions of law and regulation. An appeal cannot challenge the propriety, equity, or legality of any provision of law or regulation. This chapter sets forth the policies and procedures for appealing decisions made by TRICARE or TRICARE contractors that adversely affect the rights and liabilities of beneficiaries and participating providers, and providers denied the status of an authorized provider under TRICARE.

#### **2.0 AUTHORITY**

The procedures and principles included in this chapter are based on the requirements of [32 CFR 199.10](#). For additional information regarding the appeal process refer to [Chapter 13, Section 5](#) and the TRICARE Policy Manual (TPM), [Chapter 1, Section 4.1](#) and [32 CFR 199.15\(g\), \(h\), and \(i\)](#).

#### **3.0 CONTRACTOR RESPONSIBILITIES**

It is the responsibility of the contractor to ensure that the rights of appealing parties are protected at all levels of the appeal process in which the contractor participates. The contractor's responsibility begins with the initial determination and does not end until a final resolution is reached, including, where appropriate, timely payment following a reversal.

##### **3.1 Initial Determinations**

The contractor shall develop a written plan and implement a formal appeal process that incorporates the requirements for initial medical necessity and factual determinations set forth below. In any case when the initial determination is adverse to the beneficiary or non-network participating provider, the notice shall include a statement of the right to appeal the determination. The contractor shall issue a dated initial determination in the form of an Explanation of Benefits (EOB) or a letter. The initial determination shall contain sufficient information to enable the beneficiary or provider to understand the basis for the denial. The initial determination shall state with specificity what services and supplies are being denied and for what reason. The contractor shall retain a legible hardcopy or digital copy of the initial determination or be able to produce a duplicate EOB from digital records upon request. The initial determination shall include adequate notice of appeal rights and requirements. If a request for authorization for services or supplies is denied and a claim is later submitted, the claim will render the preauthorization request moot.

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### **3.2 TRICARE/Medicare Dual Eligible - Initial Determinations**

Services and supplies denied payment by Medicare will not be considered for coverage by TRICARE if the Medicare denial of payment is appealable under the Medicare appeal process. If Medicare denies the appeal, Medicare's decision is final and no appeal is available under TRICARE. If, however, a Medicare appeal results in some payment by Medicare, the services and supplies covered by Medicare will be considered for coverage by TRICARE. Services and supplies denied payment by Medicare will be considered for coverage by TRICARE if the Medicare denial of payment is not appealable under the Medicare appeal process. The appeal procedures set forth in this chapter are applicable to initial denial determinations by TRICARE under the TRICARE Dual Eligible Fiscal Intermediary Contract (TDEFIC). A flow chart diagramming the appeal process relating to TRICARE/Medicare dual eligible appeals is at [Addendum A, Figure 12.A-7](#).

### **3.3 Written Notice Of Initial Determination (Not EOB)**

Suggested wording for a non-expedited written appeal notice (including factual determinations) can be found [Addendum A, Figure 12.A-8](#).

### **3.4 Suggested Modified Wording For An Appeal Of A Preadmission/Preprocedure Initial Denial Determination**

Suggested wording for an appeal of a preadmission/preprocedure denial determination can be found at [Addendum A, Figure 12.A-9](#).

### **3.5 Suggested Modified Wording For An Appeal Of A Concurrent Review Initial Denial Determination**

Suggested wording for an appeal of a concurrent review initial denial determination can be found at [Addendum A, Figure 12.A-10](#).

### **3.6 Submission Of Reconsideration Requests**

The contractor shall establish unique post office boxes or addresses and e-mail addresses to receive reconsideration requests.

## **4.0 WAIVER OF LIABILITY**

If applicable, waiver of liability as it applies to the beneficiary and non-network provider for services found not to be medically necessary, at an inappropriate level, custodial care, or other reasons relative to reasonableness, necessity or appropriateness of care, shall be addressed in the initial determination. Refer to [Section 4, paragraph 4.0](#) for additional information relating to the applicability of waiver of liability.

## **5.0 UNDELIVERABLE INITIAL DETERMINATIONS**

If the notice of initial determination is returned as undeliverable, the contractor shall follow the procedures set forth in [Chapter 8, Section 6, paragraph 7.0](#).

## **6.0 FINALITY OF INITIAL DETERMINATION**

The initial determination is final and binding unless the initial determination is reopened by the contractor or revised upon appeal.

## **7.0 PROVIDING ASSISTANCE**

### **7.1 To Appealing Parties**

The contractor shall ensure that the rights of appealing parties are protected. In discharging this responsibility, the contractor shall:

- Issue initial and reconsideration determinations which clearly explain appeal rights when an adverse decision is made.
- Explain to inquirers the procedures for requesting a reconsideration, a formal review or a hearing.
- Complete the file documentation when necessary, e.g., provide an EOB copy when an appeal is filed without a copy, or develop for additional information when the appealing party's statements indicate a need for added support or the file indicates added development is appropriate.
- When requested to do so, provide the appealing party a copy of the appeal file.

### **7.2 To The Defense Health Agency (DHA)**

When an appealing party files for a formal review or hearing with DHA, the contractor shall provide a complete file record to DHA on a timely basis. (See [Section 6](#) for requirements.)

## **8.0 REPROCESSING OF CLAIMS AND PREADMISSION/PREPROCEDURE REQUESTS FOLLOWING ISSUANCE OF RECONSIDERATION DETERMINATIONS, FORMAL REVIEW DETERMINATIONS AND HEARING FINAL DECISIONS**

DHA will provide the appropriate contractor with a copy of the formal review determination and hearing final decision. All contractor determinations reversed in whole or in part by the contractor's or the TRICARE Quality Management Contract (TQMC) contractor's reconsideration determination, the DHA formal review determination, or by a hearing final decision, shall be reprocessed by the contractor in accordance with the standards set forth in [Chapter 1, Section 3](#). For the purposes of [Chapter 1, Section 3](#), the date of receipt is considered the date the TQMC contractor's reconsideration determination, the formal review determination, or the hearing final decision is received by the contractor. The contractor must return to DHA any formal review determinations or hearing final decisions misdirected to the contractor.

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