

## **IC 27-13-10**

### **Chapter 10. Grievance Procedures**

#### **IC 27-13-10-1**

##### **Establishment of procedures**

Sec. 1. A health maintenance organization or limited service health maintenance organization shall establish and maintain a grievance procedure for the resolution of grievances initiated by enrollees and subscribers of the organization. The grievance procedure of a health maintenance organization or limited service health maintenance organization must be approved by the commissioner.

*As added by P.L.26-1994, SEC.25. Amended by P.L.191-1997, SEC.4.*

#### **IC 27-13-10-2**

##### **Examination by commissioner**

Sec. 2. The commissioner may examine the grievance procedures of health maintenance organizations and limited service health maintenance organizations.

*As added by P.L.26-1994, SEC.25.*

#### **IC 27-13-10-3**

##### **Records of grievances**

Sec. 3. A health maintenance organization or limited service health maintenance organization shall maintain records regarding all grievances of enrollees that the organization has received since the examination by the commissioner of the grievance procedure of the organization that immediately preceded the receipt of the grievances.

*As added by P.L.26-1994, SEC.25. Amended by P.L.191-1997, SEC.5.*

#### **IC 27-13-10-4**

##### **Notice of grievance procedure**

Sec. 4. (a) A health maintenance organization shall provide timely, adequate, and appropriate notice to each enrollee or subscriber of the grievance procedure under this chapter and IC 27-13-10.1.

(b) A health maintenance organization shall prominently display on all notices to enrollees and subscribers the telephone number and address at which a grievance may be filed.

(c) A written description of the enrollee's or subscriber's right to file a grievance must be posted by the provider in a conspicuous public location in each facility that offers services on behalf of a health maintenance organization.

*As added by P.L.191-1997, SEC.6. Amended by P.L.133-1999, SEC.5.*

#### **IC 27-13-10-5**

##### **Filing; oral or written grievance; telephone number; date**

Sec. 5. (a) An enrollee or a subscriber may file a grievance orally or in writing.

(b) A health maintenance organization shall make available to enrollees and subscribers a toll free telephone number through which grievances may be filed. The toll free number must:

- (1) be staffed by a qualified representative of the health maintenance organization;
- (2) be available for at least forty (40) normal business hours per week; and
- (3) accept grievances in the languages of the major population groups served.

(c) A grievance is considered to be filed on the first date it is received, either by telephone or in writing.

*As added by P.L.191-1997, SEC.7.*

### **IC 27-13-10-6**

#### **Filing; procedures; representative**

Sec. 6. (a) A health maintenance organization shall establish procedures to assist enrollees and subscribers in filing grievances.

(b) An enrollee or subscriber may designate a representative to file a grievance for the enrollee or subscriber and to represent the enrollee or subscriber in a grievance under this chapter.

*As added by P.L.191-1997, SEC.8.*

### **IC 27-13-10-7**

#### **Resolution of grievances**

Sec. 7. (a) A health maintenance organization shall establish written policies and procedures for the timely resolution of grievances filed under this chapter. The policies and procedures must include the following:

- (1) An acknowledgment of the grievance, orally or in writing, to the enrollee or subscriber within three (3) business days.
- (2) Documentation of the substance of the grievance and any actions taken.
- (3) An investigation of the substance of the grievance, including any aspects involving clinical care.
- (4) Notification to the enrollee or subscriber of the disposition of the grievance and the right to appeal.
- (5) Standards for timeliness in responding to complaints and providing notice to enrollees and subscribers of the disposition of the complaint and the right to appeal that accommodate the clinical urgency of the situation.

(b) The health maintenance organization shall appoint at least one (1) individual to resolve the complaint.

(c) A grievance must be resolved as expeditiously as possible, but not more than twenty (20) business days after the grievance is filed. If a health maintenance organization is unable to make a decision regarding the grievance within the twenty (20) day period due to circumstances beyond the health maintenance organization's control, the health maintenance organization shall:

- (1) notify the enrollee or subscriber in writing of the reason for the delay before the twentieth business day; and
- (2) issue a written decision regarding the complaint within an additional ten (10) business days.

(d) A health maintenance organization shall notify the enrollee or subscriber in writing of the resolution of the grievance within five (5) business days after completing the investigation. The grievance resolution notice must contain the following:

- (1) The decision reached by the health maintenance organization.
- (2) The reasons, policies, and procedures that are the basis of the decision.
- (3) Notice of the enrollee's or subscriber's right to appeal the decision.
- (4) The department, address, and telephone number through which an enrollee may contact a qualified representative to obtain more information about the decision or the right to appeal.

*As added by P.L.191-1997, SEC.9.*

#### **IC 27-13-10-8**

##### **Appeals of grievance decisions; filing of report for violation**

Sec. 8. (a) A health maintenance organization shall establish written policies and procedures for the timely resolution of appeals of grievance decisions. The procedures for registering and responding to oral and written appeals of grievance decisions must include the following:

- (1) Acknowledgment of the appeal, orally or in writing, within three (3) business days after receipt of the appeal being filed.
- (2) Documentation of the substance of the appeal and the actions taken.
- (3) Investigation of the substance of the appeal, including any aspects of clinical care involved.
- (4) Notification to enrollees or subscribers of the disposition of the appeal and that the enrollee or subscriber may have the right to further remedies allowed by law.
- (5) Standards for timeliness in responding to appeals and providing notice to enrollees or subscribers of the disposition of the appeal and the right to initiate an external appeals process that accommodate the clinical urgency of the situation.

(b) The health maintenance organization shall appoint a panel of qualified individuals to resolve an appeal. An individual may not be appointed to the panel who has been involved in the matter giving rise to the complaint or in the initial investigation of the complaint. Except for grievances that have previously been appealed under IC 27-8-17, in the case of an appeal from the proposal, refusal, or delivery of a health care procedure, treatment, or service, the health maintenance organization shall appoint one (1) or more individuals to the panel to resolve the appeal. The panel must include one (1) or more individuals who:

- (1) have knowledge in the medical condition, procedure, or treatment at issue;
- (2) are in the same licensed profession as the provider who proposed, refused, or delivered the health care procedure, treatment, or service;
- (3) are not involved in the matter giving rise to the appeal or the previous grievance process; and
- (4) do not have a direct business relationship with the enrollee or the health care provider who previously recommended the health care procedure, treatment, or service giving rise to the grievance.

(c) An appeal of a grievance decision must be resolved as expeditiously as possible and with regard to the clinical urgency of the appeal. However, an appeal must be resolved not later than forty-five (45) days after the appeal is filed. A health maintenance organization that violates this subsection commits an unfair and deceptive act or practice in the business of insurance under IC 27-4-1-4.

(d) If a health maintenance organization violates subsection (c), the health maintenance organization shall file a report with the department during the quarter in which the violation occurred concerning the insurer's compliance with subsection (c). The report must include the following:

- (1) The number of appealed grievance decisions that were not resolved as required under subsection (c).
- (2) The reason each appeal described in subdivision (1) was not resolved.

(e) A health maintenance organization shall allow enrollees and subscribers the opportunity to appear in person at the panel or to communicate with the panel through appropriate other means if the enrollee or subscriber is unable to appear in person.

(f) A health maintenance organization shall notify the enrollee or subscriber in writing of the resolution of the appeal of a grievance within five (5) business days after completing the investigation. The grievance resolution notice must contain the following:

- (1) The decision reached by the health maintenance organization.
- (2) The reasons, policies, or procedures that are the basis of the decision.
- (3) Notice of the enrollee's or subscriber's right to further remedies allowed by law, including the right to review by an independent review organization under IC 27-13-10.1.
- (4) The department, address, and telephone number through which an enrollee may contact a qualified representative to obtain more information about the decision or the right to an appeal.

*As added by P.L.191-1997, SEC.10. Amended by P.L.133-1999, SEC.6; P.L.178-2003, SEC.85.*

**Action against provider representing enrollee or subscriber**

Sec. 11. A health maintenance organization may not take action against a provider solely on the basis that the provider represents an enrollee or subscriber in a grievance filed under this chapter.

*As added by P.L.191-1997, SEC.11.*

**IC 27-13-10-12**

**Approval of grievance and appeals procedures**

Sec. 12. (a) Notwithstanding IC 27-13, the department shall approve the grievance and appeals procedures of a health maintenance organization if:

(1) the health maintenance organization certifies in writing to the department of the health maintenance organization's compliance with grievance and appeals procedures established by the federal Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services; and

(2) the department certifies that the grievance and appeals procedures established by the federal Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services are substantially similar to the grievance and appeals process in IC 27-13.

(b) Subsection (a) does not:

(1) limit the authority of the department;

(2) limit the responsibility of a health maintenance organization;

(3) release a health maintenance organization from the prohibitions established under section 11 of this chapter; or

(4) require a health maintenance organization to use a grievance and appeals procedure established by the federal Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services.

*As added by P.L.191-1997, SEC.12. Amended by P.L.66-2002, SEC.17.*

**IC 27-13-10-13**

**Adoption of rules**

Sec. 13. The department may adopt rules under IC 4-22-2 to implement this chapter.

*As added by P.L.191-1997, SEC.13.*