

DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-4

Amended Regulation 4-2-23

PROCEDURE FOR PROVIDER-CARRIER DISPUTE RESOLUTION

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Section 1 Authority

This regulation is promulgated and adopted by the Commissioner of Insurance under the authority of §§ 10-1-109, 10-16-109, and 10-16-708, C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to establish procedures for resolution of provider-carrier disputes, as required by § 10-16-705(13), C.R.S.

Section 3 Applicability

The provisions of this regulation shall apply to all carriers when they are providing health care services through managed care plans, except workers' compensation and auto insurance contracts.

Section 4 Definitions

- A. "Carrier" shall have the same meaning as found at § 10-16-102(8), C.R.S.
- B. "Managed care plan" shall have the same meaning as found at § 10-16-102(43), C.R.S.
- C. "Necessary information", for the purposes of this regulation, consists of the following:
 - 1. Each applicable date of service;
 - 2. Subscriber or member name;
 - 3. Patient name;
 - 4. Subscriber or member number;
 - 5. Provider name;
 - 6. Provider tax identification number;

7. Dollar amount in dispute, if applicable;
 8. Provider position statement explaining the nature of the dispute; and
 9. Supporting documentation where necessary, e.g., medical records, proof of timely filing.
- D. "Participating provider" shall have the same meaning as found at § 10-16-102(46), C.R.S.
- E. "Provider-carrier dispute" means, for the purposes of this regulation, an administrative, payment, or other dispute between a participating provider and a carrier that does not involve a utilization review analysis and does not include routine provider inquiries that the carrier resolves in a timely fashion through existing informal processes.
- F. "Provider-carrier dispute log" means, for the purposes of this regulation, a record of provider dispute resolution requests received by the carrier and maintained on a calendar year basis by the carrier.
1. At a minimum, the log shall include:
 - a. The date of receipt of the dispute resolution request;
 - b. The provider's name and tax identification number;
 - c. The subscriber or member name;
 - d. The subscriber or member number;
 - e. Patient name;
 - f. The date(s) of service;
 - g. The disputed amount(s), if applicable;
 - h. The nature of the dispute;
 - i. The date the request was closed;
 - j. Whether the request was pended for additional information; and
 - k. The outcome of the request.
 2. All provider-carrier dispute logs which are produced, obtained by or disclosed to the Commissioner shall be given confidential or privileged treatment to the extent provided by law to protect the privacy of the patient and provider. Confidential or privileged information may not be made public by the Commissioner, except that access to such materials may be granted to the National Association of Insurance Commissioners ("NAIC"). Disclosure of such materials shall be made only upon the prior written agreement of the NAIC to hold such information confidential.
- G. "Provider representative" means, for the purposes of this regulation, a person designated by a provider in writing, including other providers or an association of providers, to represent the provider's interest during the dispute resolution process.
- H. "Utilization review" means, for the purposes of this regulation, a set of formal techniques designed to monitor the use of, or evaluate the clinical necessity, appropriateness, efficacy, or efficiency of,

health care services, procedures, or settings. Techniques include, without limitation, ambulatory review, prospective review, second opinion, certification, concurrent review, case management, discharge planning, or retrospective review. Utilization review shall also include reviews for the purpose of determining coverage based on whether or not a procedure or treatment is considered experimental or investigational in a given circumstance, and reviews of a covered person's medical circumstances when necessary to determine if an exclusion applies in a given situation.

Section 5 Rules

- A. A carrier shall maintain written procedures for provider-carrier disputes. The procedures shall specify that requests for resolution of provider-carrier disputes must be in writing. All written requests for provider-carrier dispute resolution must be entered into a carrier's provider-carrier dispute log. The log shall be made available to the Commissioner within a reasonable time, upon request.
- B. A carrier shall make a determination of a provider dispute resolution request within forty-five (45) calendar days of receipt of all necessary information. When the carrier does not receive all necessary information to make a decision, the carrier shall request, in writing and within thirty (30) calendar days of receipt of the provider dispute resolution request, the additional information needed. The carrier shall allow the provider thirty (30) calendar days from the date of the request for additional information to provide the requested information. If the provider does not respond within the thirty (30) day timeframe, the carrier shall close the request without further review. Further consideration of the closed provider dispute resolution request must begin with a new request by the provider.
- C. Notification requirements.
 - 1. For provider dispute resolution requests where all necessary information was provided, the carrier shall send written confirmation of receipt within thirty (30) calendar days of the dispute resolution request. The written confirmation must contain:
 - a. A description of the carrier's dispute resolution procedures and timeframes;
 - b. The procedures and timeframes for the provider or the provider's representative to present his/her rationale for the dispute resolution request; and
 - c. The date by which the carrier must resolve the dispute resolution request.
 - 2. In the instance where the provider dispute resolution request is resolved in accordance with the requirements of this regulation within thirty (30) calendar days, the notice required by section 5.E. shall constitute the notice required by this section 5.C.
 - 3. In cases where the carrier does not receive all necessary information to make a decision, the carrier shall send, within thirty (30) calendar days of receipt of the provider dispute resolution request, a written notice to the provider that shall contain:
 - a. A description of the additional necessary information required to review and respond to the request;
 - b. The date, in accordance with section 5.B., that additional information must be provided by the provider; and
 - c. A statement that failure to provide the requested information within thirty (30) calendar days from the carrier's request for additional information will result in the closure of the request with no further review.

4. In cases where the provider does not submit the additional necessary information required by the carrier and the carrier closes the request, the carrier shall notify the provider in writing that the case is closed and that further consideration of the closed dispute resolution request must begin with a new request by the provider.
- D. A carrier shall offer the provider the opportunity to designate a provider representative in the dispute resolution process. The carrier shall allow the provider or the provider's representative the opportunity to present the rationale for the dispute resolution request in person. In cases where the provider determines that a face-to-face meeting is not practical, the carrier shall offer the provider the opportunity to utilize alternative methods such as teleconference or videoconference to present the rationale for the dispute resolution request. The carrier may require appropriate confidentiality agreements from the provider's representative(s) as a condition to participating in the dispute resolution process. The parties may mutually agree in writing to extend the timeframes beyond the forty-five (45) calendar days from receipt of all necessary information timeframe established by this regulation.
 - E. A carrier shall provide notification of the determination to the provider. In the event the determination is not in favor of the provider, the written notification shall include the principal reasons for the determination. The written notification shall contain:
 1. The names and titles of the parties evaluating the provider-carrier dispute resolution request, and where the decision was based on a review of medical documentation, the qualifying credentials of the parties evaluating the provider-carrier dispute resolution request;
 2. A statement of the reviewers' understanding of the reason for the provider's dispute;
 3. The reviewers' decision in clear terms and the rationale for the carrier's decision; and
 4. A reference to the evidence or documentation used as the basis for the decision.
 - F. All requirements in this regulation concerning written notification may be met by electronic means, including e-mail or facsimile, as long as confirmation of the transmission can be shown.
 - G. Nothing in this regulation shall be construed to supersede contract provisions that do not directly conflict with the terms of this regulation. For example, after a final determination is made by the carrier in accordance with the requirements set forth in this regulation, any further consideration of the request shall be handled in accordance with the contract provisions between the carrier and the provider, i.e., the request may be subject to mandatory arbitration as stated in the contract.

Section 6 Severability

If any provision of this regulation or the application of it to any person or circumstance is for any reason held to be invalid, the remainder of this regulation shall not be affected.

Section 7 Enforcement

Noncompliance with this regulation may result in the imposition of any of the sanctions made available in the Colorado statutes pertaining to the business of insurance, or other laws, which include the imposition of civil penalties, issuance of cease and desist orders, and/or suspensions or revocation of license, subject to the requirements of due process.

Section 8 Effective Date

This regulation is effective on July 1, 2018.

Section 9 History

New regulation, effective August 1, 2002.

Amended regulation effective September 1, 2011.

Amended regulation effective January 1, 2012.

Amended regulation effective December 15, 2013.

Amended regulation effective July 1, 2018.