

## PI – Guidelines for Preparation and Management of Provider Appeals Related to Fraud, Waste, and Abuse

### Purpose:

1. Describe the preparation and management of cases entering the provider appeal process.
2. Ensure all provider appeals are handled in accordance with Code of Federal Regulations, Iowa Administrative Code, Iowa Code, and Medicaid policy. When a recoupment is identified, a findings letter is sent to the provider. The provider may appeal the findings in writing within 90 calendar days from the date of the findings letter.
3. Individuals involved in the case (e.g., appellant(s), recipient(s), provider(s), appellant(s) legal team or other parties participating in the appeal on behalf of the appellant) are prohibited from having (ex parte) communication about the appeal with the ALJ or any Iowa Medicaid Directors during the appeal process.
4. Providers are instructed in the PI findings letter to direct their appeal to the Iowa Department of Health and Human Services (HHS); although, it is acceptable for appeals to be sent informally via email or telephone call, which are then forwarded to the Iowa Department of Health and Human Services.
5. All provider appeals approved by the Iowa Department of Health and Human Services are certified and sent to the Department of Inspection and Appeals (DIA) for the ALJ to set a Prehearing Conference date. If the request for an appeal is not granted, the DIA sends a letter stating why the appeal was denied.

### Identification of Roles:

<b>RACI Definitions</b>	
<b>RACI</b> - RACI charts are a type of responsibility assignment matrices in project management. These simple spreadsheets or tables highlight the different states of responsibility a stakeholder has over a particular task or deliverable and denotes it with the letters R, A, C, or I.	
<b>(R)</b>	Responsible
<b>(A)</b>	Accountable
<b>(C)</b>	Consulted
<b>(I)</b>	Informed

Iowa Medicaid PI Investigator – Responsible for preparation and management of provider appeals related to their assigned cases on which an appeal is requested. **(R)**

Iowa Medicaid Medical Necessity Review Manager – Supports appeals on cases where clinical review decisions were made by a nurse investigator. **(A)**

Iowa Medicaid PI Audits & Investigations Manager – Liaison between State and AAG and provides support as needed throughout the appeals process. **(A)**

Iowa Medicaid PI Director – Provides direction regarding whether to appeal an ALJ Proposed Decision to the Director. **(C)**

Administrative Law Judge (ALJ) – Presides over the hearing process and issues a Proposed Decision to the Iowa Department of Health and Human Services Director **(C)**

Iowa Department of Health and Human Services Director– Performs Director review of ALJ Proposed Decision if requested and renders a Final Decision. **(C)**

Assistant Attorney General (AAG) Office of the Attorney General of Iowa – Is informed if a provider has legal representation or obtains legal representation at any time throughout the appeal process. AAG provides legal counsel support or may assume primary responsibility for an appeal where the provider obtains legal representation. **(I)**

### **Performance Standards:**

Prepare documents and assist in appeal hearings for all PI cases where an appeal is requested by a provider.

### **Path of Business Procedure:**

- I) Preparation and Management of Provider Appeals (Refer to the Appeal desk guide):
  - The Iowa Medicaid PI Investigator documents whether the provider has indicated the involvement of legal counsel and notifies their manager. If the provider has obtained legal counsel, the Iowa Medicaid PI Investigator or their manager notifies the AAG and requests support in the appeal process.
  - If the AAG assumes primary responsibility for a case, the Iowa Medicaid PI Investigator should not directly communicate with the provider or the legal representative, unless instructed otherwise. All inquiries should be referred to the AAG. The AAG may interject himself or herself into the process at any time if she or he determines to be appropriate.

- If legal counsel for the appellant becomes involved at any time during the appeal process, the assigned Iowa Medicaid PI Investigator or their manager notify the AAG and proceed as instructed by the AAG. The instructions of the AAG preclude any differing instructions contained in this process document.
- The Iowa Medicaid PI Investigator or their manager must communicate regularly with the AAG regarding open cases for which the AAG has assumed responsibility and must include the AAG in any and all activities and/or communications related to these cases in a timely manner (same business day, when possible). If the AAG has not assumed responsibility for an appeal, the Iowa Medicaid PI Investigator or their manager should communicate with the AAG as needed for assistance, instruction, and support during the appeal process.

## 2) Receipt of Provider Appeal

- When a provider appeal certification (Notice of Hearing) is received by the Iowa Medicaid PI Unit, the Iowa Medicaid PI Investigator saves an electronic copy of the original request. A copy of all the documentation relating to each specific appeal will have a separate designated folder within the case file created by the Iowa Medicaid PI Investigator.
- The Iowa Medicaid PI Investigator scans a copy of the appeal certification into OnBase. The appeal certification then becomes a permanent part of the OnBase provider file. The Iowa Medicaid PI Investigator also places a copy of the appeal certification in the appeal folder within the case file.
- The Iowa Medicaid PI Investigator or a designee enters the appeal information into the Appeals Log and is responsible for updating this log as information becomes available. Information includes:
  - Provider Name and Number
  - Project ID
  - Administrative Law Judge assigned to the case
  - Appeal Number
  - Recoupment amount
  - Iowa Medicaid PI Investigator 's Name
  - Status of the case-dates and times along with descriptions, e.g., Certified 02/19/04
  - Known Legal Representation

### 3) Receipt of Notice of Prehearing Conference and Requesting a Prehearing Conference

- The Iowa Medicaid PI Investigator may receive a Notice of Prehearing Conference. At times, the appeal may be scheduled for appeal Hearing without a Prehearing Conference. In that case, the Iowa Medicaid PI Investigator should determine whether a Prehearing Conference is needed. If so, as soon as possible, the request for Prehearing Conference along with the reason for the request should be filed (with the assigned ALJ) and a copy of the request should be sent to the appealing provider by the Iowa Medicaid PI Investigator.
- The Iowa Medicaid PI Investigator reserves a conference room for the scheduled date and time of the Prehearing Conference and sends a calendar appointment with the date of the Prehearing Conference, including the assigned conference room, via email to:
  - AAG if involved in the case,
  - Iowa Medicaid PI Investigator and their manager,
  - The Iowa Medicaid PI Unit or Policy staff who may also be involved in the case. (Additional information regarding the appeal may be sent with the calendar appointment or in subsequent e-mails.)
- The Iowa Medicaid PI Investigator scans a copy of the Notice of Prehearing and/or Hearing into OnBase.
  - The Iowa Medicaid PI Investigator updates the appeal information into the iSight database.
  - The Iowa Medicaid PI Investigator will send a copy of the Findings Letter (Notice of Determination – NOD) to the appointed Administrative Law Judge (ALJ) and/or upload it into the Appeals Information System (AIS).
  - The Iowa Medicaid PI Investigator continues updating the iSight database, as new appeal information is provided.

### 4) Preparing for the Prehearing Conference

- The Prehearing Conference Notice may require the parties to prepare for the Prehearing Conference and may set deadlines for preparation. The Iowa Medicaid PI Investigator must follow all of the requirements and deadlines in that Prehearing Conference Notice. Any of the preparations identified

below may be replaced or supplemented by any requirements and deadlines in the Prehearing Conference Notice.

- Generally, the Prehearing Conference Notice will require that one week before the Prehearing Conference, the parties file a jointly compiled list or table containing the information required by the Prehearing Conference Notice. Therefore, the Iowa Medicaid PI Investigator must confer with the Appellant to prepare such a list. If the Appellant is unavailable or uncooperative, the Iowa Medicaid PI Investigator may file a proposed list or table. The Iowa Medicaid PI Investigator must make that information available to the Appellant before the Hearing.
- The Iowa Medicaid PI Investigator is to be prepared to identify and provide the following information at the Prehearing Conference.
  - Names of the individuals the parties intend to call as witnesses.
  - General kinds of documents the parties intend to introduce as exhibits.
  - Anticipated length of the Hearing.
  - Whether an in-person or telephone Hearing is desired.
  - Other procedural matters the parties may raise.
  - Available dates and times for future Hearing related activities.
- Generally, by close of business on the day before the Prehearing Conference, the Iowa Medicaid PI Investigator emails the ALJ and the Appellant with the names and telephone numbers of all persons they wish to have participation in the Prehearing Conference.

#### 5) The Prehearing Conference

- The Iowa Medicaid PI Investigator or their manager will take their calendar schedule to the Prehearing Conference to ensure that future appointments can be made without conflicting with other scheduled events. All persons who will participate in the Formal Hearing should be present or should make their calendars available to the Iowa Medicaid PI Investigator before the Prehearing Conference.
- To participate in the Prehearing Conference, the attendees should call into the toll-free number indicated in the Prehearing Conference Notice at the time indicated. Generally, the Iowa Medicaid PI Investigator and their manager will be present. The Iowa Medicaid PI Account Manager may attend as available or as needed. If legal counsel is involved, the AAG will attend.

Additionally, other Iowa Medicaid PI Investigators or Clinical Nurse Reviewers may attend.

- At the Prehearing Conference, the Iowa Medicaid PI Investigator or their manager may object to the presence of anyone other than the appellant or a representative of the appellant.
- If an attorney is unexpectedly present on behalf of the appellant, ask for a continuance to have opportunity to get the AAG involved. If the request is denied, proceed with the Prehearing Conference, and notify the AAG Iowa immediately following the Prehearing Conference.
- If the appellant does not show up, move to dismiss the appeal as abandoned under 44 I.A.C. 7.8(9).
- At the Prehearing Conference, the Iowa Medicaid PI Investigator will identify and provide the following information:
  - Identification of the issues.
  - Names of the individuals the parties intend to call as witnesses.
  - General kinds of documents the parties intend to introduce as exhibits.
  - Anticipated length of the hearing.
  - Whether an in-person or telephone hearing is desired.
  - Other procedural matters the parties may raise.
  - Available dates and times for future hearing related activities
- At the end of the Prehearing Conference, the Iowa Medicaid PI Investigator updates the appeals log and iSight database.
- The Iowa Medicaid PI Investigator reserves a conference room, if needed, for the hearing and notifies the appropriate parties.

#### 6) Preparing for Formal Hearing

- The Iowa Medicaid PI Investigator develops a reminder of dates that required exhibits or other documents are due to the ALJ or appellant. The Iowa Medicaid PI Investigator will complete tasks within the timelines below unless the Prehearing Conference or Hearing Notice assigns different deadlines.
- The Iowa Medicaid PI Investigator prepares a complete exhibit package with each exhibit clearly labeled. An index or table of contents is prepared to

detail the list of exhibits. Each item that might be used in the appeal must be included in the exhibit.

- At least two weeks before the hearing, the parties exchange the exhibits they plan to offer at the hearing. Exhibits are marked at the bottom of the page. Generally, the notices require HHS to mark its exhibits numerically from 1-100 in sequence (e.g., Exhibit 1, Exhibit 2, Exhibit 3, etc.). All pages of the exhibits must be numbered.
- The Iowa Medicaid PI Investigator prepares the exhibit books, CDs or electronic copies to be sent. Four copies are made of all documents requested. One for the Iowa Medicaid PI Investigator, one for the ALJ (and/or uploaded into the AIS), one for the provider/appellant and one for the legal counsel (if represented).
- Each letter and/or fax document related to appeals, as with regular review projects, must contain an Outgoing Correspondence Tracking Log Number, so that the documents are tracked appropriately.
  - At least two weeks before the hearing (or earlier as directed by the ALJ), the Iowa Medicaid PI Investigator sends the ALJ one complete copy of the exhibits and/or uploads it into the AIS, as well as sending a list of witnesses the Department will call.
  - The Iowa Medicaid PI Investigator must ensure that the ALJ does not receive exhibits or case information before the appellant or material different than was provided to the appellant.
  - The exhibits to the ALJ are provided in well-organized and labeled format.
  - All written materials compiled by the PI Unit undergo the Quality Assurance process.

## 7) The Formal Appeal

- General progression: Preliminary Matters; Opening Statements; Offer Exhibits into Evidence; Iowa Medicaid's Case; Petitioner's Case; Iowa Medicaid Rebuttal Case if needed; Closing Arguments.
- If the Petitioner or a representative for Petitioner do not show up, move for default under 441 I.A.C. 7.13(4).
- Make sure only parties, representatives, and witnesses are present. Ask Judge to exclude any others.

- The parties may be allowed to offer exhibits not exchanged before the hearing at the discretion of the ALJ. If allowed, exhibits not previously exchanged must be provided to the ALJ and the appellant per the ALJ's instructions.

#### 8) After the Formal Hearing

- After the formal hearing, the ALJ will issue a Proposed Decision to the Iowa Department of Health and Human Services Director ("Director"). The Iowa Medicaid PI Investigator must notify the Iowa Medicaid PI Investigator or designee in writing within two business days of the PI Unit's receipt of the Proposed Decision of the ALJ.
- If neither party requests Director Review, the Proposed Decision becomes the ALJ's Final Decision.

#### 9) After the Formal Appeal – Director Review

- Both parties have 10 days following the issuance of the Proposed Decision to request Review by the DHHS Director.
- Following the issuance of the Proposed Decision by the ALJ, Iowa Medicaid PI Investigator and their manager will review the Proposed Decision to evaluate whether it is acceptable.
- If the ruling is not considered acceptable, the Iowa Medicaid PI Audits & Investigations Manager or designee will consult the AAG and Iowa Medicaid PI Director to determine whether to appeal the Proposed Decision to the Director.
- If an appeal is approved, the Iowa Medicaid PI Audits & Investigations Manager or designee will draft a letter requesting the Director to review and reverse or amend the Proposed Decision. This letter will be given to the designated Policy person who will present it to the Appeals Advisory Committee. It must be dated and delivered within 10 days of the date of the ALJ's Proposed Decision.
- The Request for Review of Proposed Decision must explain why the ruling is deficient and how the legal and supplementary references were not followed.
- If the Director grants a Review of the Proposed Decision, either party may request oral argument, but the Director has the discretion to grant or deny oral argument.



- After Review, the Director must issue a Final Decision within 90 days from the date of the Request for Review. However, that time-frame may be extended for essential reasons by up to an additional 30 days when approved by the Administrative Law Judge.
- If the Final Decision of the Director does not fully affirm the PI findings, within seven days of receipt of the Final Decision, the Iowa Medicaid PI Investigator sends a revised findings letter and explanatory spreadsheet to the provider with a copy to the ALJ. Corrective payments due must be made within seven days and should be retroactive to the date of the incorrect action.

#### I0) Provider Appeal of Final Decision

- If the provider does not agree with the Director's Final Decision, the provider may appeal the case to the judicial system. The appeal must be made within 30 days of the Final Decision of the ALJ. If the PI Unit receives an appeal, the AAG should be notified immediately.

#### I1) Closing the File

- The Iowa Medicaid PI Investigator updates the case on the Appeals Log and moves the case to the Sr. Financial Analyst to collect payment or closes the case if the identified balance has been paid in full.
- Refer to "Conducting a Full Review" standard operating procedure to follow review process through to closure. (Also refer to all i-Sight desk guides for database documentation guidelines.)

### **Forms/Reports:**

Appeals Tracking Log

Appeal Notification to the ALJ

Appeal Notification to the Provider

Final Decision Second Notice Payment Past Due Letter

FOR – Final affirmed Decision by ALJ or Director with Recoupment

Modified Final Decision by ALJ – Revised Recoupment

Prehearing Requirements ALJ

Referral for Review of Proposed Decision (Director Review)

DHS Staff Submitting Request for Director Review

### **Interfaces:**

Preparation and Management of Provider Appeals Related to FWA

Version 2.0

4/25/23









Appeals Information System (AIS)  
Department of Health and Human Services (DHHS)  
Department of Inspection and Appeals (DIA)  
Assistant Attorney General (AAG)-Iowa Medicaid

**Attachments:**

Appeals Tracking Log:

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Appeals templates:

				
Appeal Notification to the ALJ - 18_v.2.d	Appeal Notification to the Provider - 18_Second Notice Paym	Final Decision - Affirmed Decision b	FOR - Final Decision by ALJ - Re	Modified Final Decision by ALJ - Re
				
Prehearing Requirements ALJ - 'of Proposed Decision	Referral for Review Request for Director F	DHS Staff Submitting Request for Director F		

Desk Guide for Appeals

  
Desk Guide for Appeals\_FINAL10.14