Section 7: Appeals

Texas Medicaid Provider Procedures Manual: Vol. 1

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SECTION 7: APPEALS

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7.1 Appeal Methods

An appeal is a request for reconsideration of a previously dispositioned claim.

Providers may use three methods to appeal Medicaid fee-for-service and carve-out service claims to Texas Medicaid & Healthcare Partnership (TMHP): electronic, Automated Inquiry System (AIS), or paper.

TMHP must receive all appeals of denied claims and requests for adjustments on paid claims within 120 days from the date of disposition of the Remittance and Status (R&S) Report on which that claim appears. If the 120-day appeal deadline falls on a weekend or holiday, the deadline is extended to the next business day.

Standard administrative requests and medical appeals must be sent first to TMHP or the claims processing entity as a first-level appeal. After the provider has exhausted all aspects of the appeals process for the entire claim, the provider may submit a second-level appeal to HHSC.

1) A first-level appeal is a provider's initial standard administrative or medical appeal of a claim that has been denied or adjusted by TMHP. This appeal is submitted by the provider directly to TMHP for adjudication and must contain all required information to be considered.
2) A second-level appeal is a provider's final medical or standard administrative appeal to HHSC of a claim that meets all of the following requirements:
   - It has been denied or adjusted by TMHP.
   - It has been appealed as a first-level appeal to TMHP.
   - It has been denied again for the same reason(s) by TMHP.

This appeal is submitted by the provider to HHSC, which may subsequently require TMHP to gather information related to the original claim and the first-level appeal. HHSC is the sole adjudicator of this final appeal.

All providers must submit second-level administrative appeals and exceptions to the 95-day filing deadline appeals to the following address:

Texas Health and Human Services Commission
HHSC Claims Administrator Operations Management
Mail Code 91X
PO BOX 204077
Austin, Texas 78720-4077

TMHP is not responsible for managing appeals resulting from utilization review (UR) decisions by the HHSC Office of Inspector General (OIG) UR Unit. These must be submitted to HHSC Medical and UR Appeals.

Note: *Appeals for managed care claims must be submitted to the managed care organization (MCO) or dental plan that administers the client's managed care benefits. The only managed care appeals administered by TMHP are those for carve-out services.*

Refer to: Subsection 7.3.3, "Utilization Review Appeals" in this section.

The *Medicaid Managed Care Handbook* (*Vol. 2, Provider Handbooks*) for additional information about managed care appeals.

7.1.1 Electronic Appeal Submission

Electronic appeal submission is a method of submitting appeals using a personal computer. The electronic appeals feature can be accessed by a business organization (e.g., billing agents) interfacing directly with the TMHP Electronic Data Interchange (EDI) Gateway or through TexMedConnect, the free web-based application available from TMHP.

The Health Insurance Portability and Accountability Act (HIPAA) standard American National Standards Institute (ANSI) ASC X12 837 format is accepted by TMHP EDI.

For other information, contact the TMHP EDI Help Desk at 1-888-863-3638.

7.1.1.1 Advantages of Electronic Appeal Submission

Using electronic appeal submission provides the following advantages to the users:

- Increased accuracy of appeals filed to potentially improve cash flow.
- Maintained audit trails through print and download capabilities.
- Appeal submission windows can be automatically filled in with electronic R&S (ER&S) Report information, thereby reducing data entry time.

7.1.1.2 Disallowed Electronic Appeals

The following claims may not be appealed electronically:

- Claims that require supporting documentation (e.g., operative report, medical records, home health, hearing aid, and dental X-rays).
- Diagnosis-related group (DRG) assignment.
- Medicare crossovers.
- Claims listed as *pending* or *in process* with explanation of pending status (EOPS) messages.
- Claims denied as *past filing deadline* except when retroactive eligibility deadlines apply.
- Claims denied as *past the payment deadline*.
- Claims with quantity billed changes in the claims details.
- Claims that are the result of a mass adjustment.

Exception: *Inpatient hospital claims denied for lack of a Hysterectomy Acknowledgment Statement or a Sterilization Consent Form may be appealed electronically if the requested form has been faxed according to the instructions in the Texas Medicaid - Title XIX Acknowledgment of Hysterectomy Information on the TMHP website at www.tmhp.com.*

7.1.2 Resubmission of TMHP Electronic Data Interchange (EDI) Rejections

TMHP EDI transactions that fail HIPAA edits will be rejected, and the submitter will receive a 277CA claim response file. The 277CA claims response file lists activity by submitter, provider, and payer.

The 277CA claims response file includes member identifier, patient last name and first initial, patient control number (PCN), type of bill or place of service, charge, transaction from and to dates, receipt date, rejection code, and rejection description.

Providers must send the batch ID, PCN, date of service, transaction from and to dates, receipt date, and rejection codes from the 277CA claims response file to TMHP when appealing denied claims.

The batch ID is located in the file name of the returned 277CA claims response, and not within the file. Providers must include the batch ID in all electronic response files submitted to TMHP for appeals to denied claims. Handwritten batch IDs are not acceptable for submission to TMHP. Providers who cannot identify or retrieve the batch ID from the 277CA claims response file name should contact the clearinghouse or vendor to have the filename included in the response document. If not, the provider must request a copy of the response file that contains the filename from the clearinghouse.

Providers who receive a rejection on the 277CA claims response file may resubmit an electronic claim within 95 days of the date of service.

A paper appeal may also be submitted with a copy of the response document within 120 days of the 277CA claims response file rejection to meet the filing deadline. A copy of the electronic response file rejection to include the batch ID must accompany each corrected claim that is submitted on paper.

7.1.3 Automated Inquiry System (AIS) Appeals

The following appeals may be submitted using AIS:

- *Client eligibility.* The client's correct Medicaid number, name, and date of birth are required.
- *Provider information (excluding Medicare crossovers).* The correct provider identifier is required for the billing provider, performing provider, referring provider, and limited provider. The name and address of the provider are required for the facility and outside laboratory.
- *Claim corrections.* Providers may correct the:
  - Patient control number (PCN).
  - Date of birth.
  - Date of onset.
  - X-ray date.
  - Place of service (POS).
  - Quantity billed.
  - Prior authorization number (PAN).
  - Beginning date of service (DOS), as long as the new date is within the filing deadline for the claim.
  - Ending date of service, as long as the new date is within the filing deadline for the claim.

The following appeals may not be appealed through AIS:

- Claims listed on the R&S Report as Incomplete Claims
- Claims listed on the R&S Report with $0 allowed and $0 paid
- Claims requiring supporting documentation (for example, operative report, medical records, home health, hearing aid, and dental X-rays)
- DRG assignment
- Procedure code, modifier, or diagnosis code
- Medicare crossovers
- Claims listed as *pending* or *in process* with EOPS messages
- Claims denied as *past filing deadline* except when retroactive eligibility deadlines apply
- Claims denied as *past the payment deadline*
- Inpatient hospital claims that require supporting documentation
- Third party liability (TPL)/other insurance

Providers may appeal these denials either electronically or on paper.

Refer to: Subsection 7.1.1.2, "Disallowed Electronic Appeals" in this section to determine whether these appeals can be billed electronically. If these appeals cannot be billed electronically, a paper claim must be submitted.

Exception: *Inpatient hospital claims denied for lack of a Hysterectomy Acknowledgment Statement or a Sterilization Consent Form may be appealed if the requested form has been faxed according to the instructions under subsection 6.13, "Hysterectomy Services" in the Gynecological, Obstetrics, and Family Planning Title XIX Services Handbook (Vol. 2, Provider Handbooks).*

7.1.4 Automated Inquiry System Automated Appeals Guide

To access the AIS automated appeals guide, providers can call 1-800-925-9126. Providers may submit up to three fields per claim and 15 appeals per call. If during any step invalid information is entered three times, the call transfers to the TMHP Contact Center for assistance.

7.1.5 Paper Appeals

Claim appeal requests that cannot be appealed electronically or by using AIS may be appealed on paper. Completed claim forms are not required to be submitted with paper appeals. Providers who submit paper appeals must clearly document on the attached R&S Report the information that is being appealed and identify the claim being appealed.

If a provider determines that a claim cannot be appealed electronically or through AIS, the claim may be appealed on paper by completing the following:

1) Submit a copy of the R&S Report page on which the claim is paid or denied. A copy of other official notification from TMHP may also be submitted.
2) Submit one copy of the R&S Report for each claim appealed.
3) Circle only one claim per R&S Report page.
4) Identify the reason for the appeal.
5) If applicable, indicate the incorrect information and provide the corrected information that should be used to appeal the claim.
6) Attach a copy of any supporting medical documentation that is required or has been requested by TMHP. Supporting documentation must be on a separate page and not copied on the opposite side of the R&S Report.

Note: *It is strongly recommended that providers submitting paper appeals retain a copy of the documentation being sent. It also is recommended that paper documentation be sent by certified mail with a return receipt requested. This documentation, along with a detailed listing of the claims enclosed, provides proof that the claims were received by TMHP, which is particularly important if it is necessary to prove that the 120-day appeals deadline has been met. If a certified receipt is provided as proof, the certified receipt number must be indicated on the detailed listing along with the Medicaid number, billed amount, date of service (DOS), and a signed claim copy. The provider may need to keep such proof regarding multiple claims submissions if the provider identifier is pending.*

Medicare crossovers and inpatient hospital appeals related to medical necessity denials or DRG assignment/adjustment must be submitted on paper with the appropriate documentation.

Submit correspondence, adjustments, and appeals (including routine inpatient hospital claims) to the following address:

Texas Medicaid & Healthcare Partnership
Appeals/Adjustments
PO Box 200645
Austin, TX 78720-0645

Exception: *Hospitals appealing HHSC OIG UR Unit final technical denials, admission denials, DRG revisions, continued-stay denials for Tax Equity and Fiscal Responsibility Act (of 1982) (TEFRA) Hospitals, or cost/day outliers must appeal to HHSC at the following address:*

Texas Health and Human Services Commission
Medical and UR Appeals, H-230
PO Box 85200
Austin, TX 78708-5200

All other provider fields on the claim forms (referring, facility, admitting, operating, and other) require only an NPI.

Providers that choose to appeal the claim with NPI information must continue submitting both a TPI and an NPI until the claim is finalized.

7.1.5.1 Texas Medicaid Fee-for-Service DRG Adjustment Appeal

Texas Medicaid fee-for-service hospital providers who are appealing a DRG adjustment (higher weight DRG) must provide the original and revised UB-04 CMS-1450 paper claim form, the complete medical record, and a statement defining the reason for the requested change. Hospitals have 120 days from the date of the R&S Report to request an addition of a diagnosis or procedure resulting in a DRG adjustment. Providers appealing a DRG that has not been revised by the OIG Utilization Review Unit should appeal to TMHP.

Refer to: Subsection 7.3.3, "Utilization Review Appeals" in this section.

7.1.5.2 Medical Necessity Denial Appeals

Appeals of denials relating to medical necessity decisions made for all medical services with the exception of HHSC Inpatient UR cases may be submitted for further review if providers find denials are inappropriate. All necessary documentation must accompany the request for review. Incomplete appeals and adjustment requests are denied by TMHP with an explanation of benefits (EOB) code requesting additional information.

TMHP reviews each appeal (DRG adjustment and medical necessity) and forwards written notice of final action in the form of a letter or an adjustment transaction on the R&S Report.

7.1.5.3 Other Insurance Appeals

To appeal a claim denial due to other insurance coverage, the provider must submit complete other insurance information including the disposition date. The disposition date indicates when the other insurance company processed the payment or denial. An appeal submitted without this information will be denied.

If submitting a paper appeal the provider must submit EOBs containing disposition dates. If the disposition date appears only on the first page of an EOB that has multiple pages and the claim that is being appealed is on a subsequent page, the provider must also include the first page of the EOB that shows the disposition date.

7.1.6 Appeals Submitted Incorrectly

If an incomplete appeal is received, it is returned to the sender with further appeal instructions and a request for more information. Documentation (either by letter or facsimile) that does not clearly indicate the reason for submission is returned to the sender for clarification.

If an appeal is received that may be more appropriately addressed in another department, the appeal is forwarded to the appropriate department for research and response.

If the TMHP Medical Director or designee identifies a pattern of ineffective use of the appeals process, the provider may be referred to a provider relations representative for assistance.

7.2 Refunds to TMHP

The TMHP Cash Reimbursement Unit is responsible for processing financial adjustments when any of the following occur: overpayment, duplicate payment, payment to incorrect providers, and overlapping payments by Medicaid and a third party resource (TPR).

Providers have the option of refunding payments by issuing a check to TMHP or requesting a recoupment through the paper appeal process. The paper appeal process does not require a provider to issue a check because the refund amount is reduced on the R&S Report. To accurately process claim refunds, the TMHP Cash Reimbursement Unit requests that the refund check be accompanied by Texas Medicaid Refund Information Form, with the following information:

- Refunding provider's name and provider identifier.
- Client's name and Medicaid ID number.
- Date of service.
- A copy of the R&S Report showing the claim to which the refund is being applied.
- The specific reason for the refund.
- Name and address of the attorney or casualty insurance company (including the policy and claim number).
- TPR subscriber information.
- Amount of insurance payment.

Refer to: "Section 8: Third Party Liability (TPL)" (*Vol. 1, General Information*) for additional TPL information.

7.3 Appeals to HHSC Texas Medicaid Fee-for-Service

7.3.1 Administrative Claim Appeals

An administrative appeal is a request for review of (not a hearing on) claims that are denied by TMHP or claims processing entity for technical and nonmedical reasons. There are two types of administrative appeals:

- *Exception requests to the 95-day filing deadline or 120-day appeal deadline.* A provider's formal written request for review of (not a hearing on) a claim that is denied or adjusted by TMHP for failure to meet the 95-day filing deadline or 120-day appeal deadline. Exception requests to the 95-day filing deadline should meet one of the five exceptions in subsection 7.3.1.2, "Exceptions to the 95-Day Filing Deadline" in this section. Exceptions to the 120-day appeal deadline should meet one of the situations in subsection 7.3.1.3, "Exceptions to the 120-day Appeal Deadline" in this section.
- *Standard Administrative Appeal.* A provider's formal written request for review of (not a hearing on) a claim or prior-authorization that is denied by TMHP for technical or non-medical reasons.

An administrative claims appeal is a request for a review as defined in Title 1 TAC §354.2201(2).

An administrative appeal must be:

- Submitted in writing to HHSC Claims Administrator Operations Management by the provider delivering the service or claiming reimbursement for the service.

- Received by HHSC Claims Administrator Operations Management after the appeals process with TMHP or the claims processing entity has been exhausted, and must contain evidence of appeal dispositions from TMHP or the claims processing entity:
  - All correspondence and documentation from the provider to TMHP or the claims processing entity including copies of supporting documentation submitted during the appeal process.
  - All correspondence from TMHP or the claims processing entity to the provider including TMHP's final decision letter or such from the claims processing entity.
- Complete and contain all of the information necessary for consideration and determination by HHSC Claims Administrator Operations Management to include the following:
  - A written explanation specifying the reason/request for appealing the claim.
  - Supporting documentation for the request.
  - All R&S Reports identifying the claims/services in question.
  - Identification of the incorrect information and the corrected information that is to be used to appeal the claim.
  - A copy of the original claim, if available. Claim copies are helpful when the appeal involves medical policy or procedure coding issues. Also provide a corrected signed claim.
  - A copy of supporting medical documentation that is necessary or requested by TMHP.
  - Provider's internal notes and logs or ticket numbers from the TMHP Contact Center when pertinent (cannot be used as proof of timely filing).
  - Memos from HHSC, TMHP, or claims processing entity indicating any problems, policy changes, or claims processing discrepancies that may be relevant to the appeal.
  - Other documents, such as receipts (i.e., certified mail along with a detailed listing of the claims enclosed), in-service notes, minutes from meetings, if relevant to the appeals. Receipts can be helpful when the issue is late filing.
- Received by HHSC Claims Administrator Operations Management within 120 days from the date of disposition by TMHP or the claims processing entity as evidenced by the weekly R&S Report.

Administrative appeals can be submitted electronically through the My Account page on the TMHP portal. Once an appeal has been submitted, providers can login to My Account to view the following information:

- The status of administrative appeals that were submitted electronically or on paper
- Communications from TMHP and Texas HHSC

Providers who have submitted their claims electronically must identify the batch submission ID with the date on the electronic claims report. This report must indicate the TMHP assigned batch ID. In addition, this report must include the individual claim that is being appealed. The claim information on the batch report, including date of service and billed amount, must match the information on the claim that is being appealed. This required information constitutes proof of timely filing.

Note: *Only reports accepted or rejected from TMHP or the claims processing entity to the vendor will be honored unless the provider is a direct submitter (TexMedConnect). Office notes indicating claims were submitted on time or personal screen prints of claim submissions are not considered proof of timely filing.*

HHSC Claims Administrator Operations Management only reviews appeals that are received within 18 months from the DOS. All claims must be paid within 24 months from the DOS as outlined in 1 TAC §354.1003.

Providers must adhere to all filing and appeal deadlines for an appeal to be reviewed by HHSC Claims Administrator Operations Management. The filing and appeal deadlines are described in 1 TAC §354.1003.

Additional information requested by HHSC Claims Administrator Operations Management must be returned to HHSC Claims Administrator Operations Management within 21 calendar days from the date of the letter from HHSC Claims Administrator Operations Management. If the information is not received within 21 calendar days, the case is closed.

A determination made by HHSC Claims Administrator Operations Management is the final decision for claim appeals. No additional consideration is available. Therefore, ensure that all documents pertinent to the appeal are submitted. New evidence is required for an additional appeal to HHSC Claims Administrator Operations Management.

Mail appeal requests to the following address:

Texas Health and Human Services Commission
HHSC Claims Administrator Operations Management
Mail Code-91X
PO Box 204077
Austin, Texas 78720-4077

Providers may request the status of an administrative appeal by sending an email to HHSC at MCD_Administrative_Appeals@hhsc.state.tx.us. The email must include the TPI number, client name, Medicaid number, date of service, and, if available, the case review number.

7.3.1.1 Requirements for Exception Requests

HHSC Claims Administrator Operations Management makes the final decision on whether claims fall within one of the exceptions to the 95-day or 120-day filing deadlines.

Providers must submit the following documentation for all exception requests:

- Exception requests must be in writing and mailed directly to HHSC.
- Adequate back-up documentation must accompany the exception request. Failure to provide adequate documentation results in the case being closed. Providers are notified of the reason for denial.
- All claims that are to be considered for an exception must accompany the request. HHSC will consider only the claims that are attached to the request.
- Additional claims cannot be added to an exception request after the exception request has been completed by HHSC. Additional claims must be submitted as a separate request and must include all required documentation. Information from a previous request will not be linked by HHSC to process additional claims.
- All exception requests must include an affidavit or statement from the provider stating the details of the cause for the delay, the exception being requested, and verification that the delay was not caused by neglect, indifference, or lack of diligence of the provider or the provider's employee or agent. This affidavit or statement must be made by the person with personal knowledge of the facts.
- Multiple requests submitted simultaneously must be sorted by provider identifier first, and then alphabetically by client name. The orderly submission of exception requests facilitates the review process. Exception requests are returned to the provider if not submitted in the required format.

HHSC may request additional information which must be received within 21 calendar days from the date of the letter from HHSC. If the information is not received within 21 calendar days, the case will remain closed.

HHSC notifies providers about the outcome of the case upon completion of an exception request review.

7.3.1.2 Exceptions to the 95-Day Filing Deadline

HHSC Claims Administrator Operations Management is responsible for reviewing requests for exceptions to the 95-day filing deadline for Texas Medicaid fee-for-service. Only providers can submit exception requests. Requests from billing companies, vendors, or clearinghouses are not accepted unless accompanied by a signed authorization from the provider (with each appeal). Without provider authorization, these requests are returned without further action.

HHSC will only consider exceptions to the 95-day filing deadline for claims that are submitted within the 365-day federal filing deadline from the date of service as outlined in 1 TAC §354.1003.

Exceptions to the filing deadline are considered when one of the following situations exists:

- Catastrophic event that substantially interferes with normal business operations of the provider, or damage or destruction of the provider's business office or records by a natural disaster, including, but not limited to, fire, flood, or earthquake; or damage or destruction of the provider's business office or records by circumstances that are clearly beyond the control of the provider, including, but not limited to, criminal activity. The damage or destruction of business records or criminal activity exception does not apply to any negligent or intentional act of an employee or agent of the provider because these persons are presumed to be within the control of the provider. The presumption can only be rebutted when the intentional acts of the employee or agent lead to termination of employment and filing of criminal charges against the employee or agent.

  Providers requesting an exception for catastrophic events must include independent evidence of insurable loss; medical, accident, or death records; or police or fire report substantiating the exception of damage, destruction, or criminal activity.

- Delay or error in the eligibility determination of a client, or delay due to erroneous written information from HHSC, its designee, or another state agency.

  Providers requesting an exception for the delay or error in the eligibility determination of a client or delay due to erroneous written information from HHSC, its designee, or another state agency must include the written document from HHSC or its designee that contains the erroneous information or explanation of the delayed information.

- Delay due to electronic claim or system implementation problems experienced by HHSC, its designee, or Texas Medicaid providers.

  Providers requesting an exception for the delay due to electronic claim or system implementation problems experienced by HHSC, its designee, or Texas Medicaid providers must include the written repair statement, invoice, computer or modem generated error report (indicating attempts to transmit the data failed for reasons outside the control of the provider), or the explanation for the system implementation problems.

  The documentation must include a detailed explanation made by the person making the repairs or installing the system, specifically indicating the relationship and impact of the computer problem or system implementation to claims submission, and a detailed statement explaining why alternative billing procedures were not initiated after the delay in repairs or system implementation was known.

  If the provider is requesting an exception based upon an electronic claim or system implementation problem experienced by HHSC or its designee, the provider must submit a written statement outlining the details of the electronic claim or system implementation problems experienced by HHSC or its designee that caused the delay in the submission of claims by the provider, any steps taken to notify the state or its designee of the problem, and a verification that the delay was not caused by the neglect, indifference, or lack of diligence on the part of the provider or its employees or agents.

- Submission of claims occurred within the 365-day federal filing deadline, but the claim was not filed within 95 days from the date of service because the service was determined to be a benefit of the Medicaid program, and an effective date for the new benefit was applied retroactively.

  Providers requesting an exception for claims that were submitted within the 365-day federal filing deadline, but were not filed within the 95-days of the date of service because the service was determined to be a benefit of Texas Medicaid and an effective date for the new benefit was applied retroactively, must include a written, detailed explanation of the facts and documentation to demonstrate the 365-day federal filing deadline for the benefit was met.

- Client eligibility is determined retroactively and the provider is not notified of retroactive coverage.

  Providers requesting an exception for client eligibility determined retroactively and the provider is not notified of retroactive coverage must include a written, detailed explanation of the facts and activities illustrating the provider's efforts in requesting eligibility information for the client. The explanation must contain dates, contact information, and any responses from the client.

7.3.1.3 Exceptions to the 120-day Appeal Deadline

HHSC must receive a written exception request within 120 days of TMHP's final action. HHSC shall consider exceptions to the 120-day appeal deadline for the following listed situations. This is a one-time exception request; therefore, all claims that are to be considered within the request for an exception must accompany the request. Claims submitted after HHSC's determination has been made for the exception will be denied consideration because they were not included in the original request.

- An exception request must be received by HHSC within 18 months from the date of service to be considered. This requirement will be waived for the exceptions listed in the following bullets (b) and (c), as well as the situation listed under "Exceptions to the 24-month deadline."
- The following exceptions to the 120-day appeal deadline are considered if the criteria in the previous bullet is met and there is evidence to support one of the following bullets:
  - (a) Errors made by a third party payor that were outside the control of the provider. The provider must submit a statement outlining the details of the cause for the error, the exception being requested, and verification that the error was not caused by neglect, indifference, or lack of diligence of the provider, the provider's employee, or agent. This affidavit or statement should be made by the person with personal knowledge of the facts. In lieu of the above affidavit or statement from the provider, the provider may obtain an affidavit or statement from the third party payor including the same information, and provide this to HHSC as part of the request for appeal.
  - (b) Errors made by the reimbursement entity that were outside the control of the provider. The provider must submit a statement from the original payor outlining the details of the cause of the error, the exception being requested, and verification that the error was not caused by neglect, indifference, or lack of diligence on the part of the provider, the provider's employee, or agent. In lieu of the above reimbursement entity's statement, the provider may submit a statement including the same information and provide this to HHSC as part of the request for appeal.
  - (c) Claims were adjudicated, but an error in the claim's processing was identified after the 120-day appeal deadline. The error is not the fault of the provider. An error occurred in the claims processing system that is identified after the 120-day appeal deadline has passed.

7.3.1.4 Exceptions to the 24-Month Payment Deadline

HHSC shall consider exceptions to the 24-month claims payment deadline for the following listed situations. The final decision about whether a claim falls within one of the following exceptions will be made by HHSC.

- Claims for providers with retroactive adjustments who are reimbursed under a retrospective payment system.
- Claims paid within six months from the Medicare paid date.
- Claims from providers under investigation for fraud or abuse.
- Claims paid at any time in accordance with a court order, to carry out hearing decisions or agency corrective actions taken to resolve a dispute, or to extend the benefits of a hearing decision, corrective action, or court order to others in the same situation as those directly affected by it.

Mail exception requests to HHSC at the following address:

Texas Health and Human Services Commission
HHSC Claims Administrator Operations Management
Mail Code 91X
PO Box 204077
Austin, TX 78720-4077

7.3.2 Medical Necessity Appeals

Medical necessity appeals are defined as disputes regarding medical necessity of services. Providers must appeal to TMHP and exhaust the appeal/grievance process before submitting an appeal to HHSC.

Medical necessity appeals related to UR decisions made by the HHSC OIG UR Unit must be appealed to HHSC not TMHP.

When filing appeals to HHSC, providers must submit copies of all supporting documentation, including information sent to TMHP.

Refer to: Subsection 7.1.5.1, "Texas Medicaid Fee-for-Service DRG Adjustment Appeal" in this section.

7.3.3 Utilization Review Appeals

Hospitals may appeal adverse UR decisions made by the HHSC OIG UR Unit to the HHSC Medical and UR Appeals Unit. The written appeal request, with complete medical record and approved Business Records Affidavit Form must be received by the Medical and UR Appeals Unit within 120 days of the date of the original HHSC OIG UR decision letter. If the appeal request with all required documentation is not received within 120 days, the appeal is not conducted, and the HHSC OIG UR decision is considered final. Any claim the facility may have to the Medicaid funds at issue are barred. Extensions of time are not granted for filing the written appeal request and submitting all of the required documentation. The procedures and specific requirements for appealing these decisions can be found in the sections that follow.

Hospitals may appeal adverse HHSC OIG UR Unit determinations to the following address:

HHSC Medical and UR Appeals
Mail Code H-230
PO Box 85200
Austin, TX 78708
or
4900 North Lamar (Express Mail Only)
Austin, TX 78751

7.3.3.1 Admission Denials, Continued Stay Denials for TEFRA Hospitals, DRG Revisions, and Cost/Day Outlier Denials

If a hospital is dissatisfied with the original retrospective review conducted by the HHSC OIG UR Unit, it may submit a written request for an appeal to the HHSC Medical and Utilization Review Appeals Unit.

The request for an appeal must include a copy of the complete medical record, a letter explaining the reasons why the HHSC OIG UR decision is incorrect, a copy of the HHSC OIG UR decision letter, and an original, properly completed, and notarized affidavit in the format approved by HHSC. The affidavit allows the hospital to certify the record as a business and legal document.

Refer to: Business Records Affidavit Form on the TMHP website at www.tmhp.com.

Complete medical records must be provided to HHSC at no charge. A complete medical record must include, but is not limited to, a discharge summary, history and physical, emergency room record, operative report, pathology report, anesthesia record, consultation reports, physician progress notes, physician orders, laboratory reports, X-ray reports, special diagnostic reports, nurses' notes, and medication records.

Any additional information requested by the HHSC Medical and UR Appeals Unit must be returned to the HHSC Medical and UR Appeals Unit within 21 calendar days of the request. If the requested documentation is not received within this time frame, the case is closed without an opportunity for further review and the original HHSC OIG UR decision is considered the final decision.

If a hospital is notified that it failed to submit any required documentation with the initial appeal request, the required information must be returned to the HHSC Medical and UR Appeals Unit within 21 calendar days of the date of notification, or within 120 days of the date of the original HHSC OIG UR decision letter, whichever is sooner. If the required documentation is not received within the time frames, the case is closed without an opportunity for further review and the original HHSC OIG UR decision is considered the final decision. Extensions of time are not granted for filing the written appeal request and submitting all required documentation.

The HHSC Medical and UR Appeals Unit is responsible for conducting an independent review in response to a provider's appeal. The professional staff uses only the documentation submitted in the medical record to determine whether an inpatient admission was appropriate and whether the diagnoses and procedures were correct. The HHSC UR and Medical Appeals physician or designee performs a complete review for the medical necessity of inpatient admission, DRG validation, quality of care, continued stay medical necessity, and ancillary charges (TEFRA cases) using the medical record documentation submitted on appeal. After completion of the review, the physician or designee renders a final decision on the case. The final decision may include determinations regarding multiple aspects of the admission. The hospital is notified in writing of the final decision. Inpatient admission denials cannot be rebilled as outpatient claims except as noted in subsection 4.2.4, "Outpatient Observation Room Services" in the *Inpatient and Outpatient Hospital Services Handbook* (*Vol. 2, Provider Handbooks*).

The HHSC Medical and Utilization Review Unit recognizes that hospital staff may use guidelines, such as the American Hospital Association's Coding Clinic, to assist them in identifying diagnoses or procedures for statistical and billing purposes. However, the HHSC Medical and Utilization Review Appeals Unit determines the appropriate diagnoses or procedures for reimbursement purposes using the documentation in the medical record (submitted on appeal) and the following guidelines:

- *Principal diagnosis assignment.* The diagnosis (condition) established after study to be chiefly responsible for causing the admission of the client to the hospital for care. The principal diagnosis must be treated or evaluated during the admission to the hospital.
- *Secondary diagnosis assignment.* Conditions that affect patient care in terms of requiring clinical evaluation, therapeutic treatment, diagnostic procedures, extended length of hospital stay, or increased nursing care or monitoring, or, in the case of a newborn (birth through 28 days of age), which the physician deems to have clinically significant implications for future health care needs. Normal newborn conditions or routine procedures should not be considered as complications or comorbidities for DRG assignment.

If the principal diagnosis, secondary diagnoses, or procedures are not substantiated in the medical record, not sequenced correctly, or have been omitted, the codes may be changed, added, or deleted by the HHSC Medical and UR Appeals physician or designee. When it is determined the diagnoses or procedures are substantiated and sequenced correctly, a final DRG assignment is made.

If the hospital is displeased with the appeals decision, the attending physician or medical director of the hospital may request an educational conference with the HHSC Medical and UR Appeals physician or designee. The educational conference is held by telephone between the physician or designee and the hospital medical director or attending physician. This is an opportunity for the physicians to discuss the deciding factors in the case and any hospital billing processes that may have affected the adjudication of the case. The educational conference will not alter the previous appeal decision.

7.3.3.2 Final Technical Denials

Hospitals may submit a request for a written appeal to HHSC Medical and UR Appeals only if the hospital has evidence that the HHSC OIG UR Unit issued a final technical denial in error, or did not provide proper notification of the preliminary technical denial. The request must include a letter explaining the reasons why the HHSC OIG UR decision is incorrect and a copy of the HHSC OIG UR decision letter.

The written appeal request must be received by HHSC Medical and UR Appeals within 120 days of the date of the original HHSC OIG UR decision letter. If the request is not received within the 120 days, the appeal is not conducted and the HHSC OIG UR decision is considered final. Any claim the facility may have to the Medicaid funds at issue are barred. Extensions of time are not granted for filing the written appeal request.

If the appeal time frame is met, the HHSC Medical and UR Appeals Unit reviews all the documentation and renders a final decision on the case. If it is determined the technical denial was issued correctly by the HHSC OIG UR Unit, HHSC's decision is upheld. The hospital is notified in writing of the decision. This decision is the final decision.

If it is determined that the final technical denial decision should be overturned, the HHSC Medical and UR Appeals Unit will request a copy of the complete medical record and an original, properly completed, notarized affidavit in the format approved by HHSC. The affidavit allows the hospital to certify the record as a business and legal document. The HHSC Medical and UR Appeals physician or designee performs a complete review for the medical necessity of the admission, DRG validation, quality of care or continued stay, and ancillary charges (for TEFRA Hospitals) using only the medical record documentation. After completion of the review, the physician or designee renders a final decision on the case. The hospital is notified in writing of the final decision.

If the requested documentation is not received within the required 21-day time frame, the case is closed without further opportunity for review and the original HHSC OIG UR decision is considered final.

7.3.4 Provider Complaints

TMHP provides for due process for resolving all provider complaints. A *complaint* is defined as any dissatisfaction expressed by telephone or in writing by the provider, or on behalf of that provider, concerning Texas Medicaid. The definition of *complaint* does not include a misunderstanding or a problem of misinformation that is resolved promptly by clearing up the misunderstanding or supplying the appropriate information to the provider's satisfaction. The definition also does not include a provider's oral or written dissatisfaction with an adverse determination or appeals regarding claim payments and denials.

Procedures governing the provider complaints process are designed to identify and resolve provider complaints in a timely and satisfactory manner. Most complaints are resolved within 30 calendar days. Complaints to TMHP may be submitted using the following methods:

- By telephone at 1-800-925-9126

- In writing to:

TMHP
Complaints Resolution Department
PO Box 204270
Austin, TX 78720-4270

Questions regarding the complaint process or the status of a complaint should be directed to the TMHP Contact Center at 1-800-925-9126.

7.3.4.1 Provider Complaint Policy

TMHP takes seriously and acts on each provider complaint. Depending on the level and nature of the complaint, TMHP works with the provider to resolve the issue or directs the complaint to the appropriate department.

The Medical Affairs Division handles complaints that relate to utilization of services (including ER use), denial of continued stay, and all clinical and access issues. This includes provider's appeal of an adverse authorization decision.

If the complaint relates to a medical issue, the Medical Affairs Division staff may assist in resolving the complaint. The provider complaints process applies only to the resolution of disputes within the control of Texas Medicaid, such as administrative or medical issues. The provider complaint process does not apply to allegations of negligence against third parties, including other Texas Medicaid providers. These complaints are referred to HHSC for review and evaluation and are resolved by HHSC.

7.3.4.2 Provider Complaint Process

The TMHP Complaints Resolution Department handles all provider complaints. The processing of a provider's complaint is described as follows:

- Providers must submit their complaint by telephone or in writing (mail or fax).
- Providers will receive a written acknowledgement letter from TMHP within five business days of receipt of the complaint.
- Referrals to other departments, such as Provider Relations or Medical Affairs, are made when appropriate.
- If the complaint cannot be resolved within 30 calendar days, the provider is notified in writing of the status of the complaint.

Providers who believe they did not receive due process regarding their complaint from TMHP may file a complaint with HHSC. Providers are encouraged to utilize the appeals and grievance process with TMHP before filing a complaint with HHSC.

7.3.4.3 Complaints to HHSC—Texas Medicaid Fee-for-Service

Texas Medicaid fee-for-service providers may file complaints to the HHSC Claims Administrator Operations Management if they find they did not receive full due process from TMHP in the management of their appeal. Texas Medicaid fee-for-service providers must exhaust the appeals and grievance process with TMHP before filing a complaint with the HHSC Claims Administrator Operations Management.

Refer to: Subsection 7.3, "Appeals to HHSC Texas Medicaid Fee-for-Service" in this section for information about submission of an appeal to HHSC.

A *complaint* is defined as any dissatisfaction expressed in writing by the provider, or on behalf of that provider, concerning Texas Medicaid. The term *complaint* does not include the following:

- A misunderstanding or a problem of misinformation that is resolved promptly by clearing up the misunderstanding or supplying the appropriate information to the provider's satisfaction.

- A provider's oral or written dissatisfaction with an adverse determination.

Under the complaint process, the HHSC Claims Administrator Operations Management works with TMHP and providers to verify the validity of the complaint, determine if the established due process was followed in resolving appeals and grievances, and addresses other program and contract issues, as applicable.

Complaints must be in writing and received by the HHSC Claims Administrator Operations Management within 60 calendar days from TMHP's written notification of the final appeal decision.

When filing a complaint, providers must submit a letter explaining the specific reasons they believe the final appeal decision by TMHP is incorrect and copies of the following documentation:

- All correspondence and documentation from the provider to TMHP, including copies of supporting documentation submitted during the appeal process.
- All correspondence from TMHP to the provider, including TMHP's final decision letter.
- All R&S Reports of the claims and services in question, if applicable.
- Provider's original claim or billing record, electronic or manual, if applicable.
- Provider's internal notes and logs when pertinent.
- Memos from HHSC or TMHP indicating any problems, policy changes, or claims' processing discrepancies that may be relevant to the complaint.
- Other documents, such as certified mail receipts, original date-stamped envelopes, in-service notes, or minutes from meetings if relevant to the complaint. Receipts can be helpful when the issue is late filing.

Complaint requests may be mailed to the following address:

Texas Health and Human Services Commission
HHSC Claims Administrator Operations Management
Mail Code 91X
PO Box 204077
Austin, TX 78720-4077

7.4 Cost Report Settlement Appeal Process

A provider who is dissatisfied with the determination contained in the Notice of Program Reimbursement (NPR) from TMHP Medicaid Audit may request an appeal as follows:

- The request for appeal must be in writing.
- The request for appeal must be filed within 180 calendar days from the date of receipt of the NPR.
- If the amount in controversy is at least $1,000, the request for the appeal must be filed with TMHP Medicaid Audit.
- If the NPR shows that the provider is indebted to Texas Medicaid, TMHP must take the necessary action to recover the overpayment, including a suspension of interim payments. This process will take place even if an appeal has been requested.

7.4.1 Appeals to TMHP Medicaid Audit

A provider's request to appeal his or her NPR must include the following:

- Identify specific individual items in TMHP Medicaid Audit's determination with which the provider disagrees.
- Give the reasons the provider believes these are incorrect.

- Identify the amount in controversy for each item and provide a calculation of that amount.

The appeal may include any materials the provider believes will support its position.

TMHP Medicaid Audit completes a desk review of the appeal within six months of the date of receipt of complete documentation supporting the appeal. TMHP does the following:

- Reviews the materials submitted by the provider.
- Informs the provider if it appears that the request for an appeal was not timely or the amount of controversy is not at least $1,000.
- Reviews the record that formed the basis for the determination of the total payment due to the provider.
- Attempts to resolve as many points in controversy as possible with the provider and inform him or her in writing the issues that have been resolved and those that the provider may appeal to HHSC.
- Ensures all available documentation in support of the provider or TMHP Medicaid Audit is part of the record.

To appeal to TMHP Medicaid Audit, send the written notice within 120 days of receipt of the NPR letter to the following address:

Texas Medicaid & Healthcare Partnership
Medicaid Audit Operations Director
PO Box 200345
Austin, TX 78720-0345

7.5 Forms

The following linked forms can be found on the Forms page of the Provider section of the TMHP website at www.tmhp.com:

Forms
Business Records Affidavit Form
Texas Medicaid Refund Information Form
Credit Balance Refund Worksheet