**Section 240.1661 Provider and Care Coordination Unit Right to Appeal**

The provider and CCU have the right to appeal any finding and/or contract action (see Section 240.1665) resulting from a performance review. When an appeal of contract action is received, the contract action shall be stayed unless there is a Type I violation (see Section 240.1650), in which case the contract action shall continue during the appeal process.

a) Upon receipt of written notification of contract actions to be taken, a provider or CCU may request an appeal in writing within 15 calendar days from the date of the notice. If the request for appeal is not filed within 15 calendar days, the appeal shall be automatically denied.

b) Appeals shall be submitted in the manner and form specified by the Department in its notice of contract action and shall be mailed or emailed to the Office of General Counsel (OGC) in Springfield.

c) The OGC, with appropriate Department staff, will conduct an informal review and make a recommendation to the Director.

d) The OGC may contact the appellant to discuss the appeal request and/or request additional information.

e) The OGC shall submit a recommendation to the Director within 60 days after receipt of the appeal or receipt of the requested information, whichever is later.

f) The Director will review the OGC recommendation within 30 days after its receipt and may accept or reject all or part of the recommendation.

1) If the Director determines that the finding and/or contract action is valid, the appeal will be denied and the finding/action shall be upheld/implemented.

2) If the Director determines that the finding and/or contract action is invalid, the appeal shall be upheld and the finding/action shall be modified or expunged, in whole or in part, with letter placed in the provider or CCU file.

g) The Director may determine that the circumstances causing the contract actions warrant a hearing that shall be conducted at a location designated by the Department. A provider or CCU may request an administrative hearing following the Director's decision after the informal review. A provider or CCU must submit its request for a hearing by close of business on the 15th calendar day after the receipt of the Director's decision. Request not timely submitted shall be denied.

h) All hearings shall be conducted by an impartial Hearing Officer authorized by the Director.

i) The Hearing Officer may schedule one or more pre-hearing conferences.

j) The Department and the appellant will provide copies of relevant documents, a list of potential witnesses, and a summary of potential testimony to be used at the hearing, to the other party. Depositions, interrogatories, other discovery mechanisms may be used upon the mutual consent of the parties. The hearing officer shall exclude immaterial, irrelevant, or unduly repetitious evidence.

k) The hearing shall be conducted in accordance with Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100] unless otherwise specified in this Part. Unless otherwise provided by law, the burden of proof will be by the preponderance of the evidence and will be on the moving party or the party bringing the action.

l) The hearing may be conducted in person or with some or all parties, including the Hearing Officer, present at different locations connected with each other by telephone, videoconference, or other electronic means. The proceedings will be recorded.

m) The appellant or a Department Representative may request a continuance, which shall be in writing to the Hearing Officer before the scheduled hearing date. A verbal request may be made when the hearing is convened. The Hearing Officer may continue the hearing to another date acceptable to all parties and the Hearing Officer.

n) The appellant may withdraw the appeal at any time prior to or during the appeal process. The withdrawal must be submitted in writing and the Department will close the appeal file. If the withdrawal occurs after the appeal has been assigned to a Hearing Officer, the withdrawal must be submitted in writing to the Hearing Officer and the Department. The Hearing officer will make an oral finding on the record that the appeal has been withdrawn.

o) The failure to appear by the appellant or to proceed with the hearing is considered a non-appearance. The appeal is considered abandoned and shall be dismissed. Dismissal of an appeal is a final administrative decision.

p) Within ten calendar days after the date of the dismissal notice, the appellant may request the reinstatement of the appeal sent in writing to the Hearing Officer and Department. The appellant's request must contain facts and supporting documentation, where applicable, to support the reinstatement. The Hearing Officer may or may not reinstate the appeal.

q) The Hearing Officer shall certify the entire record of the hearing to the Director and shall recommend a decision on each issue in the hearing within 60 calendar days from the close of evidence and argument in the appeal. The Hearing Officer shall not render a final decision relevant to any issue in the hearing.

r) The Director may accept or reject all or part of the recommendations. Their decision shall be made by applying the Department's rules to the particular case situation.

s) The Director shall issue their decision in writing no later than 90 calendar days after the Hearing Officer's recommendation. The Department shall send a copy of the decision to the parties of the appeal by mail or email. The Director's decision is final.

t) At any time within five years after the date of the release of the Department's final administrative decision, upon written request to the Office of General Counsel, the appellant/authorized representative may review the official report of the hearing.

(Source: Amended at 48 Ill. Reg. 11053, effective July 16, 2024)