



**MASSACHUSETTS
Health & Hospital
ASSOCIATION**

Re: 958 CMR 11.00 – Internal Appeals Process and External Review Process for Risk-bearing Provider Organizations and Accountable Care Organizations.

May 25, 2018

The Massachusetts Health and Hospital Association (MHA), on behalf of its member hospitals, health systems and physician organizations, appreciates the opportunity to provide feedback to the Health Policy Commission on the proposed regulation at 958 CMR 11.00 – Internal Appeals Process and External Review Process for Risk-bearing Provider Organizations and Accountable Care Organizations. MHA would also like to thank the HPC staff for soliciting and incorporating feedback from providers into the draft regulation and for keeping us apprised as the regulation was developed. As the HPC continues to refine the process, MHA offers the following comments:

Effective Date

As currently outlined, the HPC expects to ask the Board to vote on the final regulation at the July 18 board meeting with a proposed effective date of August 10, 2018. We are concerned that this will not be sufficient time for providers to develop and implement processes, educate staff, etc. Thus, MHA recommends that the start date be moved until September so that those affected by this have at least a month to adequately prepare.

958 CMR 11.07(2): Time Limits for Resolution of Internal Appeals

Many provider organizations are not currently staffed to review and process appeal requests outside of normal business hours. Requiring review of and response to expedited internal appeals within 3 calendar days may not be feasible without finding and paying physicians willing to review cases that happen over weekends and holidays. Changing the language to 3 business days instead of calendar days will allow sufficient time for review should a case be filed during weekends and holidays.

958 CMR 11.12: Fees

MGL c. 176O, s. 24 is silent regarding the allocation of fees or amounts charged for external reviews. As a result, our members have expressed concern that there may be no limit to how much an external review agency may charge for a particular review. While we assume that the OPP will mirror the process used by the carriers and thus the same fees would be assessed for an external review, there is nothing in the regulation that confirms this or that establishes any limit on how much can be charged by the external reviewer.

In addition, we believe that patients should be required to pay a small percentage of the cost of external review to help discourage frivolous or redundant/repetitive appeals. A minimal fee of \$25, consistent with the carrier external appeal process (and with the option of a financial hardship waiver) would not create a barrier to external review but would encourage patients to be thoughtful about utilizing this process. Requiring provider organizations to absorb the entire expense in addition to the time and labor costs required to implement the administrative provisions of this regulation adds to the overall cost of care.

958 CMR 11.19 Medical Records and Other Information

MHA is concerned that some of our members will be unable to meet the stringent timeframes for supplying medical records for expedited cases. Most providers do not have staff available to process these requests except during normal business hours. We would thus recommend that the timeframe for non-expedited cases in 11.19 (1)a be expanded to “within 3 business days of receipt of the notification” and the expedited requirement in 11.19(1)b be revised to “within one business day of receipt of the notification.”

In summary, we again want to thank the HPC staff for its thoughtful process in developing these regulations and we look forward to continuing to work with staff as the RBPO and ACO appeals process is implemented. If you have any questions, please feel free to contact Karen Granoff, Sr. Director of Managed Care at KGranoff@mhalink.org or 781-262-6035.