

Below, please find comments regarding 958 CMR 11.00:

11.02 Definitions:

Carrier: Is there a reason that dental and vision care are excluded? Is there a separate means for a patient to appeal decisions related to these types of care? I'm not sure such services should be excluded from patient protection.

Financial Affiliation or Financial Relationship: I find this definition to be unclear and could be reworded. I have no suggestions because I'm not sure what the current definition is trying to explain.

11.04 Information on internal appeals

(1) .. should option "c" be added to include information on the RBPO/ACO's public website?

(2) To be in sync with 11.04 (1), I suggest adding "if requested" to the end of the sentence in (2).

11.12 Fees.

While I agree that the patient should not bear a cost to process an appeal, I think there should be some boundaries as to the cost liability to RBPO/ACOs regarding the billed cost for external appeals. How do we know that the external appeal agency will only charge a reasonable and appropriate cost? What is a reasonable and appropriate cost for such services that could help RBPO/ACOs plan their budgets?

11.14 Form and manner of request for external review

(1) (a): The draft states that requests shall be on a form prescribed by the OPP, but for internal appeals, the RBPO/ACO must accept a telephone request for appeal. I believe the external appeals should also be required to accept appeal requests by telephone if the intent is truly to serve as a patient advocate for this process. Requiring a form for an external appeal request could create undue burden on some patients, especially patients who may be of limited English proficiency or blind. If external reviews must be requested in-writing, then I propose that internal review requests also be submitted only in-writing to have a consistent process for both approaches.

11.16 Requests ineligible for external review – notification.

The last word(s) of the last sentence is missing, creating an incomplete sentence.

11.19 Medical Records and Other Information

How will an RBPO/ACO know if a patient has signed a medical records release form for the external review agency to receive their medical records? I would not be comfortable releasing a patient's medical record to a review agency unless I knew for certain that the patient authorized the request.

11.21 Decisions and Notice

(7) Regarding this item, has MHA considered and discussed the potential implications, risks and liabilities for an RBPO/ACO that would be bound to a final decision by an external review agency? There

does not seem to be an appeal process for the RBPO/ACO. Should there be a process for the RBPO/ACO as well as the patient?

In general: Would the external review process be subject to peer review protections under MA peer review statues and regulations associated with the Board of Registration in Medicine and/or federal peer review protections as are afforded by federally approved patient safety organizations (PSO)? I would advocate for all such reviews to have regulatory-defined peer review protections, otherwise the RBPO/ACO could be subject to full disclosure of information in any malpractice claim that could be filed against the RBPO/ACO. While our internal appeals processes could be governed by peer review protections if so-desired by the RBPO/ACO, I do not believe we would have the option of protecting information generated by an external appeals process. Furthermore, optimal regulations (in my opinion) would automatically grant peer review protection to the RBPO/ACO for both internal and external appeals, with the appropriate controls set in place by the respective parties to fulfill peer review protection requirements that mimic BoRM and/or federal protections of this nature.

Thank you.