



**MEDICAID PROVIDER APPEALS
FOR THE PROMOTING INTEROPERABILITY (PI) PROGRAM
(FORMERLY MEDICAID EHR INCENTIVE PROGRAM)**

SCOPE

This policy applies to all providers enrolled in the Georgia Medicaid PI program (formerly EHR Incentive Program).

APPEALS GENERALLY

The Medicaid PI program appeal process shall generally conform to and be comparable with the process and procedures for Georgia Medicaid provider appeals as set forth in O.C.G.A. § 49-4-153, and in accordance with O.C.G.A. § 50-13-19, O.C.G.A. § 50-13-41, O.C.G.A. § 50-13-42(a), 42 C.F.R. § 495.370 and 42 C.F.R. § 447.253 (e). The failure to comply with the requirements set forth in the appeal process below will result in the provider’s waiver of appellate rights.

PROCEDURES

I. Administrative Review

1. A provider shall file a Request for Administrative Review of the decision to deny eligibility for an incentive payment or the decision as to the amount of an incentive payment within thirty (30) calendar days from the date of such decision by submitting a written Request for Administrative Review to the following address:

Georgia Department of Community Health
Division of Health Information Technology
2 Peachtree Street Suite 36.234
Atlanta, GA 30303
ATTN: REQUEST FOR ADMINISTRATIVE REVIEW
OR

Email your request to: HITAuditAppeals@dch.ga.gov



Note: Include REQUEST FOR ADMINISTRATIVE REVIEW in the subject line of the email.

Any appeal of an action for recoupment of Medicaid incentive funds initiated by the Office of Inspector General will be handled in accordance with the procedures set out in Part 1, Policies and Procedures for Medicaid/PeachCare for Kids®, Chapter 500.

2. After review by the Medicaid PI Program staff of the Request for Administrative Review, Department of Community Health (DCH) will issue an Administrative Review Determination in writing within thirty (30) calendar days from the date of receipt of the Request for Administrative Review. In the event that DCH needs an extension of time before issuing this determination, DCH is authorized an additional period of time not to exceed thirty (30) days. In addition, if Medicaid PI Program staff request additional information from the provider, then the time for issuing the Administrative Review Determination shall be extended thirty (30) calendar days after receipt of the complete additional information so requested. Should the Administrative Review Determination be adverse to the provider and the provider desires to appeal the decision, the provider may file a Request for Administrative Hearing. The Administrative Review process must be completed in order for a provider to be entitled to file a Request for Administrative Hearing with the Office of State Administrative Hearings (OSAH).
3. In cases involving an audit of a provider, any documentation submitted with a Request for Administrative Review may, at DCH's sole discretion, toll the time frame set out herein, to allow adequate time to re-audit the provider or for a referral to the Program Integrity Unit for the purpose of consideration of the newly submitted documentation. Such determination shall be made by the Reviewer in writing.

II. Request for Administrative Hearing

1. A provider who is dissatisfied with the Administrative Review Determination shall have thirty (30) calendar days from the date of the Administrative Review Determination to file a Request for Administrative Hearing. The hearing will be conducted by an Administrative Law Judge (ALJ) designated by the OSAH. The issues for appeal of the Administrative Review Determination regarding the Medicaid PI program include the decision to deny eligibility for an incentive payment or the decision as to the amount of an incentive payment. The provider's Request for Administrative Hearing shall identify the issues under appeal and specify the relief requested by the provider.



2. The provider's Request for Administrative Hearing shall be filed with DCH at the following address:

Georgia Department of Community Health
Legal Services Unit
Medicaid PI Program Administrative Hearing Request
2 Peachtree Street, N.W., 40th Floor
Atlanta, Georgia 30303

Or

Email the request to: HITAuditAppeals@dch.ga.gov

Note: Include REQUEST FOR ADMINISTRATIVE HEARING in the subject line of the email.

3. DCH shall, within 15 business days of receiving the Request for Administrative Hearing, transmit a copy of the provider's request for hearing to OSAH.
4. OSAH shall assign an ALJ to hear the dispute within 15 days after receiving the request. The hearing is required to commence no later than 90 days after the assignment of the case to an ALJ, and the ALJ shall issue a written decision on the matter no later than 30 days after the close of the record except when it is determined that the complexity of the issues and the length of the record require an extension of these periods and an order is issued by an ALJ so providing, but no longer than 30 days. Such time requirements can be extended by written consent of all the parties. Failure of the ALJ to comply with the above time deadlines shall not render the case moot.
5. Should the decision of the ALJ be adverse to a provider and should a provider desire to appeal that decision, the provider must file a request, in writing, with the Commissioner of DCH within ten (10) days of his or her receipt of the hearing decision. Such a request must enumerate all factual and legal errors alleged by the provider. The Commissioner, or the Commissioner's designated representative, may affirm, modify, or reverse the decision appealed from.
6. The provider's Request for Commissioner Review shall be filed with DCH at the following address:

Georgia Department of Community Health
Department of Legal Services



Medicaid PI Program Request for Commissioner Review
2 Peachtree Street, N.W., 40th Floor
Atlanta, Georgia 30303

Or

Email the request to: HITAuditAppeals@dch.ga.gov

Note: Include REQUEST FOR COMMISSIONER REVIEW in the subject line of the email.

7. Failure to comply with the procedural requirements of the Request for Administrative Hearing set out herein, including the requirement to timely submit necessary documentation, data or proper explanation shall constitute a waiver of any and all further appeal rights, including the right to Administrative Hearing, Commissioner Review and/or judicial review.

III. Final Administrative Decision of Reviewing Agency

1. DCH shall serve as the Reviewing Agency. The DCH Commissioner, or the Commissioner's designated representative, shall issue the Final Administrative Decision. The DCH Commissioner, or the Commissioner's designated representative, shall have a period of 30 days following the entry of the decision of the ALJ in which to affirm, reject or modify such decision. The decision to affirm, reject or modify the ALJ's decision shall rest with the Commissioner of DCH, or the Commissioner's designated representative. If the Commissioner of DCH, or the Commissioner's designated representative, fails to affirm, reject or modify the decision of the ALJ within such 30 day period, then the decision of the ALJ shall stand affirmed by DCH by operation of law.
2. DCH, may, prior to the expiration of the review period provided for in paragraph (1) of this subsection, extend such review period by order of the DCH Commissioner, or the Commissioner's designated representative, in any case wherein unusual and compelling circumstances render it impracticable for the DCH Commissioner, or the Commissioner's designated representative, to complete its review within such period. Any such order shall recite with particularity the circumstances which render it impracticable for the reviewing agency to complete its review within such review period. Any such extension by the reviewing agency shall be for a period of time not to exceed 30 days. Prior to the expiration of the extended review period, the review period may be further extended by further order of the reviewing agency for one additional period not to exceed 30 days if unusual and compelling circumstances



render it impracticable to complete the review within the extended review period. Such further order further extending the review period shall likewise recite with particularity the circumstances which render it impracticable for the reviewing agency to complete its review within the review period as previously extended. If a reviewing agency fails to reject or modify the decision of the administrative law judge within the extended review period, then the decision of the ALJ shall stand affirmed by the reviewing agency by operation of law.

3. DCH may provide by rule that proposed decisions in all or in specified classes of cases before OSAH Hearings will become final without further agency action and without expiration of the 30 day review period otherwise provided for in this subsection.
4. A provider who is aggrieved by the Final Administrative Decision of the DCH Commissioner, or the Commissioner's designated representative, may seek judicial review as authorized by law.

IV. Judicial Review

1. Any provider who has exhausted all administrative remedies within DCH as set forth above and who is aggrieved by the Final Administrative Decision may seek judicial review in accordance with the provisions of O.C.G.A. § 50-13-19.
2. Proceedings for review are instituted by filing a petition within 30 days after the service of the final decision of the agency or, if a rehearing is requested, within 30 days after the decision. The petition may be filed in the Superior Court of Fulton County or in the superior court of the county of residence of the petitioner; or, if the petitioner is a corporation, the appeal may be brought in the Superior Court of Fulton County or in the superior court of the county where the petitioner maintains its principal place of doing business in this state. Copies of the petition shall be served upon the agency and all parties of record. The petition shall state the nature of the petitioner's interest, the fact showing that the petitioner is aggrieved by the decision, and the ground as specified in O.C.G.A. § 5-13-19(h) upon which the petitioner contends that the decision should be reversed or modified. The petition may be amended by leave of court.
3. The filing of the petition for judicial review in superior court does not itself stay enforcement of the agency decision. The agency may grant, or the reviewing court may order, a stay upon appropriate terms for good cause shown.
4. Within 30 days after the service of the petition or within further time allowed by the court, the agency shall transmit to the reviewing court the original or a certified copy



of the entire record of the proceeding under review. By stipulation of all parties to the review proceedings, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent corrections or additions to the record.

5. If, before the date set for hearing, application is made to the court for leave to present additional evidence and it is shown to the satisfaction of the court that the additional evidence is material and there were good reasons for failure to present it in the proceedings before the agency, the court may order that the additional evidence be taken before the agency upon conditions determined by the court. The agency may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.
6. The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before the agency, not shown in the record, proof thereon may be taken in the court. The court, upon request, shall hear oral argument and receive written briefs.
7. The court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:
 - (1) In violation of constitutional or statutory provisions;
 - (2) In excess of the statutory authority of the agency;
 - (3) Made upon unlawful procedure;
 - (4) Affected by other error of law;
 - (5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
 - (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Note: DCH may obtain assistance with an appeal from a Myers and Stauffer staff member who did not perform the pre-payment and/or post-payment auditing procedures.