



Title:	Practitioner Appeal Process				
Department/Line of Business:	Provider Network Operations / All Lines of Business				
Approver(s):	SWHP/ICSW Credentialing Committee				
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LINE OF BUSINESS

This document applies to the following line(s) of business:
All Lines of Business

DEFINITIONS

When used in this document with initial capital letter(s), the following word(s)/phrase(s) have the meaning(s) set forth below unless a different meaning is required by context. Additional defined terms may be found in the BSWH P&P Definitions document.

None.

POLICY

In order to provide a high quality medical care network for members, Scott & White Health Plan (SWHP)/Insurance Company of Scott & White (ICSW) uses objective evidence and patient care considerations to provide a fair hearing and appeal process for altering practitioners' participation with SWHP/ICSW, and a process for reporting to appropriate authorities.

SWHP/ICSW's denial of a practitioner's application to become a provider is not grounds for a fair hearing under this policy. Initial application denials are given a reason for denial, but no appeal rights are given.

PROCEDURE

Appeal Process

The practitioner has the right to appeal the findings or conclusion of a review action, except where the SWHP/ICSW Chief Medical Officer determines immediate or serious danger to a SWHP/ICSW member's health or safety, or there is an action by a state medical board, medical licensing board, other licensing board, or other government agency that effectively impairs the practitioner's ability to practice medicine or other profession.

Requesting Hearing

The Credentialing Committee Chairman, or Designated Physician, is responsible for giving written notice of an adverse decision of the Credentialing Committee to affected practitioners who are entitled to a fair hearing by certified mail, return receipt requested. The notice:

1. Advise the practitioner of the decision, action or proposed action and the basis, therefore.

2. Advises the practitioner of his/her right to a fair hearing and specify that he/she has thirty (30) calendar days to file a written request for a fair hearing. Such request is sent by certified mail and may include a request for a copy of material, favorable or unfavorable, which was considered in making the adverse decision.
3. States that failure to request a fair hearing within thirty (30) calendar days, or failure to personally appear at the scheduled hearing constitutes a waiver of the practitioner's right to the hearing. Receipt is deemed to occur upon confirmation by the United States Postal Service's certified mail receipt of delivery.
4. States that upon receipt of his/her request, the practitioner is notified of the date, time and place of the hearing, which date is not less than thirty (30) calendar days nor more than sixty (60) calendar days following receipt of the request by Chief Medical Officer

Notification to Practitioner also includes Practitioner Rights

1. The right to be represented by an attorney or an individual of their choosing. The practitioner includes in the request for a hearing the name, address, and phone number of such representative, and if representative is not an attorney, the occupation of such representative.
2. Advise the practitioner of his/her right to call, examine and cross-examine witnesses, to present relevant evidence, and to submit a written statement at the close of the hearing.
3. State that upon completion of the hearing, the practitioner receives a copy of the written report and recommendation of the Hearing Committee, including a statement of the basis of the recommendation.
4. The failure of a practitioner to request a hearing within thirty (30) calendar days and in the manner herein provided, or failure to personally appear at the scheduled hearing, is deemed a waiver of his/her right to such hearing and the adverse decision of the Credentialing Committee becomes final. The Chief Medical Officer, or Designated Physician, promptly notifies the affected practitioner his/her status by certified mail, return receipt requested.
5. Within fifteen (15) calendar days of the date of final adverse decision, as defined above, the Chief Medical Officer, or Designated Physician, a report is filed with the National Practitioner Data Bank and/or the Texas State Board of Medical Examiners, whenever reporting is required by law.

Scheduling and Notice of Hearing

1. Within ten (10) calendar days after receipt of a request for fair hearing from a practitioner entitled to the same, the Chief Medical Officer or designee, schedules and arrange for such review. The hearing date is not less than thirty (30) calendar days nor more than sixty (60) calendar days from the date of receipt of the request for hearing, unless the practitioner in writing requests and the Chief Medical Officer, or Designated Physician, agrees to an earlier date.
2. The notice of the hearing states the time, place and date of the hearing, the composition of the Hearing Committee which is the majority of peers of the affected practitioner along with the names of the individuals chosen to serve on the Hearing Committee, a list of witnesses who may testify on behalf of the Credentialing Committee, and contains a short and plain statement of the basis for the adverse action which identifies acts, omissions or transactions with which the practitioner is charged and, when appropriate, identifies other reasons or subject matter which justifies the adverse decision. A copy of material, favorable or unfavorable, which was considered in making the adverse decision is furnished upon request by the practitioner, or his/her representative.
3. Any objection to the Hearing Committee appointees is submitted by the practitioner or his/her representative, specifying grounds therefore, in writing, by certified mail to the Chief Medical Officer, or Designated Physician, within ten (10) calendar days after receipt of notice of the hearing, otherwise committee stands as appointed.
4. At least ten (10) calendar days prior to the hearing, each party furnishes to the other a written list of the names and addresses of individuals that party intends to call as witnesses at the hearing. Each party updates its

witness list if and when additional witnesses are identified at least two (2) calendar days prior to hearing, and neither party calls witnesses not named in advance except in rebuttal.

Composition of Hearing Committee

1. When fair hearing relates to an adverse decision of the Credentialing Committee, such is conducted by a designated committee consisting of at least three (3), but not more than five appointees, one of whom is designated as chairperson.
2. No appointee may be in direct economic competition with the practitioner.
3. No appointee may be an individual who requested corrective action or served on the Credentialing Committee, which made the adverse decision.
4. Appointees of the Hearing Committee sign a Confidentiality Agreement prior to receipt of any information regarding the practitioner to be reviewed.
5. The Chief Medical Officer, or Designated Physician, appoints at least one representative (attorney or non-attorney) to represent the Credentialing Committee at the hearing. The representative presents facts in support of the adverse decision and examine witnesses.

Conduct of Hearing

1. There are at least three (3) members of the Hearing Committee present when the review takes place and no member may vote by proxy.
2. An accurate record of the hearing is kept.
3. The personal presence of the practitioner for whom the hearing has been scheduled is required. A practitioner who fails without good cause to appear and proceed at such hearing is deemed to have waived his/her rights and to have accepted the adverse decision involved, and the same thereupon becomes and remain in effect.
4. Extension or acceleration of any time limits in the hearing process are mutually agreed between the Chief Medical Officer, or Designated Physician, and the practitioner to be reviewed. Requests for postponement of a review are granted only upon a showing of good cause. A review is postponed no more than two (2) times.
5. The Chairperson of the Hearing Committee, presides over the hearing to determine the order of procedure during the hearing, to assure that participants in the hearing have a reasonable opportunity to present relevant oral and documentary evidence, to maintain decorum at the hearing, to make rulings on matters of law, procedure and considerations of evidence, and to vote on any final recommendations or other matters brought to a vote. The Chairperson may order that oral evidence be taken only under oath/affirmation.
6. The use of a Hearing Officer to preside at a hearing in place of the Chairperson is optional. The use and appointment of a Hearing Officer is determined by the Chief Medical Officer or Designated Physician. A Hearing Officer may or may not be an attorney but is experienced in conducting hearings. The Hearing Officer acts in an impartial manner as the presiding officer of the hearing. If requested by the Hearing Committee, the Hearing Officer may participate in its deliberations and act as its advisor but is not entitled to vote.
7. The hearing process is not conducted strictly according to rules of law relating to the examination of witnesses or presentation of evidence. The hearing process is not judicial in form, but rather a forum for professional evaluation and discussion. Any relevant matter upon which responsible persons customarily rely in the conduct of serious affairs is considered, regardless of the existence of any common law or statutory rule that might make evidence inadmissible over objection in civil or criminal action.
8. The practitioner or his/her representative, and the representative appointed by the Chief Medical Officer, or Designated Physician, is entitled to submit either prior to or during the hearing, memoranda concerning any issue of procedure or of fact and such memoranda becomes a part of the hearing record. In reaching a decision, the Hearing Committee may take notice of any generally accepted technical or scientific matter

relating to the issues under consideration at the hearing and of any facts which may be judicially noticed by the Texas courts.

9. Both the practitioner and the Credentialing Committee representative are given the opportunity to call, examine and cross examine witnesses, introduce exhibits and present relevant evidence, question witnesses on matters relevant to the issues, impeach any witness, rebut any evidence, and submit a written statement at the close of the review.
10. Witness statements may be distributed at the review. Individuals who gave witness statements are available by phone, or in person, for questioning by the practitioner or Credentialing Committee representative. Witness statements becomes part of the record of the hearing.
11. The Credentialing Committee representative presents evidence in support of the adverse decision first. The practitioner presents evidence to challenge the adverse decision second by an appropriate showing that the charges or grounds involved lack any factual basis or any action based thereon is arbitrary, unreasonable, or capricious. The burden of proof remains with the practitioner.
12. The Hearing Committee is entitled to consider any pertinent material contained in the practitioner's credential or peer review files and other information that can and may be considered in connection with credentialing/recredentialing and continued participation as a practitioner for SWHP/ICSW. The Hearing Committee is entitled to conduct independent review, research, and interviews, but may utilize the products of this in its decision only if the parties are aware of and have the opportunity to rebut any information gathered.
13. A Case Summary of Events, from both parties, to include the facts of the case and any witness statements, may be requested by the Hearing Committee and is to be submitted to the Hearing Committee and both parties at least two (2) business days prior to the hearing. Notice of the request to submit a Case Summary of Events is sent to the parties not less than ten (10) calendar days prior to the hearing. Failure to submit a Case Summary of Events when requested constitutes a waiver of the party's case.
14. The Hearing Committee is required to consider and decide the case objectively and in good faith. The Hearing Committee may, without special notice, recess the review and reconvene the same for the convenience of the participants or for the purpose of obtaining new or additional evidence or consultation. Recesses cannot extend the time within which an action is required to be taken under the hearing process without express consent of both parties. Upon conclusion of the presentation of oral and written evidence, the hearing is closed. The Hearing Committee conducts its deliberations outside the presence of the parties at a time convenient to itself.
15. Within ten (10) calendar days after the Hearing Committee concludes its deliberations, the Hearing Committee makes written report and recommendation. Findings and recommendations are supported by reference to the review record and other documentation which was considered. The Hearing Committee forwards the written report and recommendation, the review record and other documentation to the Chief Medical Officer, or Designated Physician. The Chief Medical Officer, or Designated Physician, also transmits a copy of report and recommendations to the affected practitioner, delivered by certified mail, return receipt requested. The report may recommend confirmation, modification, or rejection of the original adverse decision of the Credentialing Committee.

Review of Hearing Report and Recommendation

1. Within thirty (30) calendar days after receipt of the report of the Hearing Committee, the Chief Medical Officer, or Designated Physician, presents the written report and recommendation to the Credentials Committee, at which time the Credentials Committee considers the report and recommendation and affirm, modify, or reverse its decision.
2. The Chief Medical Officer, or Designated Physician, notifies the practitioner, in writing by certified mail, return receipt requested, of the final decision of the Credentials Committee.

General Provisions

1. No practitioner is entitled as a right to more than one evidentiary hearing review on any matter that has been the subject of action by the Credentials Committee and/or SWHP/ICSW Board of Directors.
2. If at any time after receipt of notice of an adverse recommendation, action or result, a practitioner fails to make request for hearing review or to personally appear, or otherwise fails to comply with the hearing, he/she is deemed to have consented to the adverse decision and to have voluntarily waived rights to which he/she otherwise have been entitled to under the hearing review process with respect to the matter involved.
3. By requesting a hearing review, a practitioner agrees to be bound by the provisions of the Practitioner Appeals Process in matters relating thereto.
4. Any time limits set forth in Practitioner Appeals Process may be extended or accelerated by mutual agreement of the practitioner and the Chief Medical Officer. The time period specified in the Practitioner Appeals Process are to guide those bodies in accomplishing their tasks and are not be deemed to create any right for reversal of the adverse decision if the hearing process or appellate review is not completed within the time periods specified.
5. Technical or insignificant deviations from the procedures set forth in Practitioner Appeals Process are not grounds for invalidating the action taken.
6. Any practitioner who incurs legal fees in his/her behalf is solely responsible for payment thereof.

ATTACHMENTS

None.

RELATED DOCUMENTS

Ongoing Monitoring of Sanctions, Complaints, Adverse Actions, and Quality Issues (SWHP.PNO.015.P)

Review and Reporting of Final Adverse Actions (SWHP.PNO.017.P)

Range of Actions to Improve Performance/Altering the Conditions of Participation (SWHP.PNO.024.P)

REFERENCES

National Committee for Quality Assurance (NCQA): CR 5 Standard

Centers for Medicare and Medicaid Services (CMS) – Medicare Managed Care Manual, Chapter 6, Section 30 & 60.4

42 CFR 422.202

Texas Administrative Code, Title 28 Insurance, Part 1, Chapter 11 Health Maintenance Organization

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