

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### MEDICAL SERVICES ADMINISTRATION

#### MSA PROVIDER HEARINGS

(By authority conferred on the executive director of the department of health and human services by sections 6 and 9 of 1939 PA 280, MCL 400.6 and 400.9, and Executive Reorganization Orders 2005-1 and 2011-4, MCL 445.2021 and 445.2030)

#### **R 400.3401 Rescinded.**

History: 1979 AC; 2015 AACs.

#### **R 400.3402 Definitions.**

Rule 2. As used in these rules:

(a) "Adverse action" means any of the following:

(i) A suspension or termination of provider participation in the medical assistance program.

(ii) A denial of an applicant's request for participation in the medical assistance program.

(iii) The reduction, suspension, or adjustments of provider payments.

(iv) Retroactive adjustments following the audit or review and determination of the daily reimbursement rates for institutional providers.

(b) "Applicant" means an individual, firm, corporation, association, agency, institution, or other legal entity that has applied to participate in the medical assistance program as a provider.

History: 1979 AC; 2016 MR 10, Eff. May 19, 2016.

Editor's Note: An obvious error in R 400.3402 was corrected at the request of the promulgating agency, pursuant to Section 56 of 1969 PA 306, as amended by 2000 PA 262, MCL 24.256. The rule containing the error was published in *Michigan Register*, 2016 MR 10. The memorandum requesting the correction was published in *Michigan Register*, 2016 MR 12.

#### **R 400.3403 Rescinded.**

History: 1979 AC; 2015 AACs.

#### **R 400.3404 Request for internal conference or appeal for administrative hearing.**

Rule 4. (1) After notice of an adverse action, providers or applicants may request an internal conference or an appeal for administrative hearing.

(2) Providers and applicants must request an internal conference or an appeal for administrative hearing in writing which shall be received within 30 calendar days of the notice of adverse action unless otherwise specified in the notice of adverse action or if a different appeal period exists in state or federal regulations.

(3) If a provider or an applicant does not timely request an internal conference or appeal for administrative hearing after receiving notice of an adverse action, the notice of adverse action is final and the department may act on it.

History: 1979 AC; 2016 MR 10, Eff. May 19, 2016.

#### **R 400.3405 Internal Conference.**

Rule 5. (1) Before a provider or an applicant requests an administrative hearing, a provider or an applicant may request an internal conference. The purpose of the internal conference is to determine whether the department action was taken according to policy.

(2) The provider or applicant may meet with a department staff member who acts as the appeals review officer from the appeals section or its successor section. The staff member is an impartial arbiter who facilitates the communication and the exchange of information between the provider or applicant and the department program staff.

(3) All requests for an internal conference must be submitted in writing to the department. The appeals review officer may deny requests for internal conferences received after 30 days or after the date specified in the notice of adverse action.

(4) A request must state all of the following:

(a) Item or items being appealed.

(b) The dollar amount involved, if any.

(c) All necessary documentation to support the reason for the internal conference.

(d) Failure to follow the requirements in this subrule may result in the denial of the internal conference by the appeals review officer.

(5) The appeals section must issue a decision within 30 days after the conclusion of the internal conference.

(6) Should the provider, applicant, and/or the department disagree with the internal conference decision, the provider, applicant, and/or the department has the right to an administrative hearing. Requests for an administrative hearing must be in writing and made within 30 days of the decision of the internal conference decision.

History: 1979 AC; 2016 MR 10, Eff. May 19, 2016.

#### **R 400.3406 Formal hearing.**

Rule 6. (1) A provider or applicant is entitled to a formal hearing pursuant to chapter 4 of 1969 PA 306, MCL 24.271 to MCL 24.287, in any case in which there has been a final determination of an adverse action as defined in R 400.34012, except where that action is predicated upon the situation described in subrule (2) of this rule.

(2) A request for a formal hearing shall not be granted if the adverse action is the result of the revocation, suspension, or termination, by an authority other than the department, of the provider's license or certification to practice in the provider's profession or to operate a nursing home, hospital, or other such medical facility,

and if the department is in receipt of a certified copy or formal notification of such revocation, suspension, or termination.

(3) A formal hearing shall be granted if the revocation, suspension, or termination of the provider's license, certification, or authorization is the result of a department action, unless the provider previously had an opportunity to have that action reviewed.

(4) Unless a written request for a formal hearing is received within 30 calendar days of notification of intent to terminate, the provider's participation shall automatically terminate as of the thirtieth calendar day after date of notification. Such termination shall then be a final and binding administrative determination.

(5) The request shall identify all of the following:

(a) Those aspects of the determination with which the provider or applicant is dissatisfied.

(b) An explanation of why the provider or applicant believes the determination on those matters is incorrect.

(c) The dollar amount, if any, involved.

(6) The request shall be submitted with any documentary evidence the provider or applicant considers necessary to support its position.

History: 1979 AC; 2016 MR 10, Eff. May 19, 2016.

#### **R 400.3407 Suspension and adjustment of program payments.**

Rule 7. (1) Regardless of any request for a hearing, payments on pending and subsequently submitted bills may be immediately suspended, in whole or in part, if the bureau director determines that the practice set out in the final determination requires immediate action to protect the health, safety, or welfare of recipients or the general public. This subrule does not prejudice the provider's right to a hearing as provided in R 400.3406. Any hearing requested pursuant to this subrule shall be commenced forthwith if requested by the provider.

(2) The final determination notice shall constitute the basis for making retroactive adjustment of any program payments made to the provider during the period to which the determination applies, including the suspension of further payments to the provider, in order to recover, or to aid in the recovery of, an overpayment identified in the determination to have been made to the provider or applicant. If the provider or applicant requests a hearing, adjustments and recovery shall not be made, except as provided in subrule (1), until 10 days after the mailing of the hearing decision as provided in R 400.3424.

History: 1979 AC.

#### **R 400.3408 Rescinded.**

History: 1979 AC; 2016 MR 10, Eff. May 19, 2016.

#### **R 400.3409 Rescinded.**

History: 1979 AC; 2015 AACCS.  
**R 400.3410 Rescinded.**

History: 1979 AC; 2015 AACCS.

**R 400.3410 Rescinded.**

History: 1979 AC; 2015 AACCS.

**R 400.3411 Rescinded.**

History: 1979 AC; 2015 AACCS.

**R 400.3412 Rescinded.**

History: 1979 AC; 2015 AACCS.

**R 400.3413 Rescinded.**

History: 1979 AC; 2015 AACCS.

**R 400.3414 Rescinded.**

History: 1979 AC; 2015 AACCS.

**R 400.3415 Rescinded.**

History: 1979 AC; 2015 AACCS.

**R 400.3416 Rescinded.**

History: 1979 AC; 2015 AACCS.

**R 400.3417 Rescinded.**

History: 1979 AC; 2015 AACCS.

**R 400.3418 Rescinded.**

History: 1979 AC; 2015 AACCS.

**R 400.3419 Rescinded.**

History: 1979 AC; 2015 AACCS.

**R 400.3420 Rescinded.**

History: 1979 AC; 2015 AACCS.

**R 400.3421 Rescinded.**

History: 1979 AC; 2015 AACCS.

**R 400.3422 Rescinded.**

History: 1979 AC; 2015 AACCS.

**R 400.3423 Rescinded.**

History: 1979 AC; 2015 AACCS.

**R 400.3424 Final decision of director or hearing authority.**

Rule 24. The director or hearing authority shall render a final decision in each case based upon the evidence in the record not later than 45 days after the administrative law judge makes his recommendation. The decision shall be made in writing. A copy of the decision shall be mailed to each party at the party's last known address. Copies of all decisions of the director or hearing authority shall be accessible to the public at the state office of the department. Copies may be obtained at actual cost.

History: 1979 AC.

**R 400.3425 Nonapplicability of rules to alternate method of hospital reimbursement.**

Rule 25. R 400.3401 to R 400.3423 do not apply to the alternate method of hospital reimbursement. That method shall follow the procedures in the approved state medical assistance plan.

History: 1979 AC.