



The Center for Enterprise Credentialing and Methods

Suspensions, Terminations, Investigations and Appeals Policy

Effective February 3, 2022

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The definitions set forth in the Center for Enterprise Credentialing and Methods (ECM) credentialing policy apply to this Suspension, Termination, Investigations and Appeals policy, unless otherwise indicated.

I. Purpose

This policy sets forth the bases and procedures for investigating, restricting, suspending and terminating a practitioner or organizational provider's participation in networks, plans or programs for which ECM has assumed the function of delegated credentialing, notifying the practitioner or organizational provider of this action and, if applicable, offering appeal rights and notifying appropriate authorities in compliance with applicable law.

Any inability to implement an applicable provision of this policy, inclusive of any further updates, revision and amendments, due to a conflict with the applicable state or federal law, state law and federal law shall control and take precedence over this policy.

II. Policy

A. A practitioner or organizational provider's participation in delegated plans, networks and programs may be terminated for any lawful reason, including but not limited to, a failure to meet eligibility criteria, matters related to professional conduct and competence, credentialing and recredentialing criteria including matters involving patient complaints and identified performance issues, and any basis set forth in the practitioner's or organizational provider's applicable participation agreement.

B. Additionally, a practitioner's participation in delegated plans, networks and programs may be evaluated when information is received relative to professional conduct and competence including, but not limited professional disciplinary actions, malpractice history and claim events, sanctions under Medicare, Medicaid or other healthcare programs, unprofessional conduct, moral turpitude, criminal convictions, reportable malpractice actions, loss or surcharge of malpractice insurance or other events that affect or could adversely affect the health or welfare of a patient reasonably calling into question the practitioner's ability, capacity or intent to deliver efficient, quality patient care. Additionally, whenever a practitioner's professional activities or conduct require that immediate action be taken as continued participation in delegated plans, networks and programs poses or could pose an imminent risk of harm to Covered Persons or if the practitioner's license is suspended, restricted or revoked, a process for immediate suspension or termination may be invoked, as applicable.

III. Investigative Process

A. Investigation.

ECM has developed the following process for inquiry into, and investigation of any complaint, allegation or concerns regarding a practitioner. This includes, but is not limited to, inquiries into and investigation of complaints and identified adverse event reports involving a practitioner. A preliminary inquiry may be undertaken by the Medical Director or designee on behalf of the Credentialing Committee, into any matter to assess whether an investigation should be requested or commenced. A preliminary inquiry is permitted but not required prior to a request for or commencement of an investigation.

1. Any request for an investigation should be submitted in writing to, or initiated by, the Medical Director or designee.

2. If the Credentialing Committee determines an investigation is warranted, an individual or ad hoc committee may be appointed to conduct the investigation. The practitioner should be notified that an investigation is being commenced and afforded the opportunity to participate in the investigative process. Investigations should be concluded within a reasonable time following receipt of the request for investigation. Upon completion of the investigation, the responsible individual or committee shall submit a written report of their findings to the Credentialing Committee.
3. Following completion of an investigation, the Credentialing Committee may make a determination regarding whether corrective action is warranted based on the findings of the investigation.

B. Corrective Action.

1. After receiving the investigating individual or committee's or designee's report, the Credentialing Committee may take one or more of (but not be limited to) the following actions:
 - a. Determine that corrective action is not warranted;
 - b. Direct that further investigation occur;
 - c. Accept the investigation report and recommendation;
 - d. Place the practitioner on probation;
 - e. Issue a letter of instruction, correction, reprimand or warning to the practitioner;
 - f. Determine that the practitioner's participation in delegated plans, networks and programs be restricted or terminated; or
 - g. Recommend or take such other action as the Credentialing Committee determines is appropriate under the circumstances.

C. Summary Suspension.

1. Grounds for Summary Suspension or Restriction:
 - a. Whenever the conduct or continuation of treating Covered Persons by a practitioner constitutes or may result in an immediate danger to Covered Persons or the general public, the Medical Director or designee, acting on behalf of the Credentialing Committee, has the authority to (1) afford the individual an opportunity to voluntarily refrain from providing services to Covered Persons pending an investigation; or (2) suspend or restrict the practitioner's participation in delegated plans, networks and programs, whichever is most appropriate under the circumstances.
 - b. A summary suspension or restriction may be imposed at any time including, but not limited to, immediately after the occurrence of an event that causes concern, following a pattern of occurrences that raises concern, or following a recommendation of the Medical Director or Credentialing Committee.

2. A summary suspension or restriction will become effective immediately upon imposition, will immediately be reported in writing to the Credentialing Committee and will remain in effect unless it is modified by the Medical Director, pertinent committee or designee.
3. The practitioner will be provided a written basis for the summary suspension, including the names and medical record numbers of the patient(s) involved, as applicable, within a reasonable period of time following imposition of the suspension.
4. Credentialing Committee Procedure:
 - a. The Credentialing Committee or appointed ad hoc committee will review circumstances related to the summary suspension or restriction (or voluntarily refrain) within a reasonable time under the circumstances, not to exceed 14 days. Prior to, or as part of, this review, the practitioner shall be given an opportunity to provide information relevant to the suspension to the Credentialing Committee or ad hoc committee.
 - b. After considering the circumstances resulting in the suspension or restriction and the practitioner's response, if any, the Credentialing Committee will determine whether further investigation should occur or if there is sufficient information to make a determination based on available information. The Credentialing Committee will also determine whether the summary suspension or restriction should be continued, modified, or terminated pending the completion of the investigation (and appeal, if applicable).

IV. Automatic Termination

- A. Any action taken by a licensing board, accreditation organization, professional liability insurance company, court or government agency regarding any of the matters set forth in section B below, or failure to satisfy any of the threshold eligibility criteria set forth in this policy, must be reported to the Medical Director within five (5) days of occurrence or receipt of notification by the practitioner.
- B. A practitioner's participation in delegated plans, networks and programs will automatically terminate should any of the following occur:
 1. Licensure: Revocation, expiration, suspension, limitation or the placement of restrictions on a practitioner's license, excluding probationary licenses.
 2. Controlled Substance Authorization: Revocation, expiration, suspension or the placement of restrictions on a practitioner's DEA or CSR.
 3. Insurance Coverage: Termination or lapse of a practitioner's professional liability insurance coverage, or other action causing the coverage to fall below the minimum required by ECM, participation agreements or a respective network, plan or program.

4. Medicare and Medicaid Participation: Termination, exclusion, or preclusion by government action from participation in the Medicare/Medicaid or other federal or state health care programs.
 5. Criminal Activity: Arrest, charge, indictment, conviction, plea of guilty, or no contest pertaining to any felony, or to any misdemeanor involving (i) controlled substances; (ii) illegal drugs; (iii) Medicare, Medicaid, or insurance or health care fraud or abuse; (iv) violence against another; or (v) abuse or neglect of a child.
 6. Requested Information: A failure to provide adequate information within thirty (30) days pertaining to a practitioner's qualifications or compliance with this policy or participation agreement and in response to a written request from the Medical Director, Credentialing Committee or any committee authorized to request such information, will result in an automatic termination
 7. Eligibility Criteria: Failure to satisfy any of the other threshold eligibility criteria set forth in the Credentialing Policy.
- C. Automatic termination will take effect immediately upon notice to the practitioner or such other date as specified in the notice. The practitioner has ten (10) days from the date of notice to submit in writing an explanation and supporting information. All determinations regarding whether a waiver should be granted will be in the sole discretion of the Medical Director or designee.

V. Right to Appeal/Pre-Appeal Process

A. Right to an Appeal.

Practitioners shall be entitled to an appeal should the Credentialing Committee take any of the following actions in furtherance of quality healthcare based on the competency or professional conduct of the practitioner:

1. Denial of participation in delegated plans, networks and programs;
2. Termination of participation in delegated plans, networks and programs; or
3. Restricting participation in delegated plans, networks and programs.

B. Notice of Adverse Action.

The Medical Director or designee shall give notice to the practitioner of any adverse action that provides for an appeal right. This notice of appeal shall include the following:

1. The action proposed to be taken;
2. The reasons for the proposed action;
3. That the practitioner has a right to an appeal and that the practitioner may appear in person or by telephone;
4. That the practitioner has thirty (30) days after receipt of the notice within which to submit a written request for an appeal;
5. A summary of the practitioner's rights in the appeal;

6. That a failure to request an appeal within the above time period, and in the proper manner, constitutes a waiver of any rights to an appeal on the matter that is the subject of the notice;
7. That upon the Medical Director's receipt of the practitioner's appeal request, the practitioner shall be notified of the date, time and place of appeal, which unless otherwise provided for shall not be less than thirty (30) days nor more than ninety (90) days after the notice, and shall provide the practitioner with a list of the witnesses expected to testify at the appeal on behalf of the Credentialing Committee.

C. Actions Not Grounds for an Appeal.

1. None of the following actions will constitute grounds for an appeal, and they will take effect without appeal. However, the practitioner will be entitled to submit a written explanation to be placed into his or her file:
 - a. Issuance of a letter of guidance, correction, counsel, warning, or reprimand;
 - b. Failing to meet contractual obligations or qualifications specified in ECM's credentialing policies or in the practitioner's network agreement;
 - c. Summary suspension, unless it exceeds fourteen (14) days in duration;
 - d. Determination that an application is incomplete;
 - e. Determination that an application will not be processed due to a misstatement or omission;
 - f. Determination of ineligibility based on a failure to meet threshold eligibility criteria, upon initial credentialing, recredentialing or during the term of participation; or a lack of need for the practitioner's specialty services.

D. Request for Appeal

All requests for an appeal must be in writing to the attention of the Medical Director and be received by certified mail within the thirty (30) calendar days following the practitioner's receipt of the notice of proposed adverse action. If the practitioner does not request an appeal within the time and in the manner specified, he or she shall be deemed to have waived his or her right to appeal.

E. Appointment of Appeals Committee/Appellate Officer.

The Medical Director or designee shall appoint an Appeals Committee composed of three (3) peers who are not in direct economic competition with the practitioner. Knowledge of the matter involved shall not preclude an individual from serving on the Appeals Committee, but an individual who previously considered and voted on the matter, has a family, professional or business relationship with the practitioner requesting an appeal that creates an actual conflict of interest shall not be eligible to serve on the Appeals Committee. One member of the Appeals Committee shall be appointed as Chair. The Chair shall conduct the appeal, any pertinent pre-appeal matters, maintain decorum, and rule on all

evidentiary and witness matters. The Chair shall ensure that all participants have a reasonable opportunity to present relevant oral and documentary evidence and shall determine the order of procedure during the appeal.

F. Pre-Appeal Process.

1. Time Frames:

The following time frames, unless otherwise agreed to in writing by the Credentialing Committee and practitioner, will govern the timing of pre-appeal procedures:

- a. The pre-appeal conference will be scheduled at least fourteen (14) days prior to the appeal;
- b. The Credentialing Committee and practitioner will exchange witness lists and proposed documentary exhibits at least ten (10) days prior to the pre-appeal conference; and
- c. Any objections to witnesses and/or proposed documentary exhibits must be provided at least five (5) days prior to the pre-appeal conference.

2. Provision of Relevant Information:

- a. By requesting participation in delegated plans, networks and programs and an appeal under this policy, prior to receiving any confidential documents, the practitioner requesting the appeal agrees, and must agree in writing, that all documents and information will be maintained as confidential and will not be disclosed or used for any purpose outside of the appeal process. The practitioner must also provide a written representation that his or her counsel and any expert(s) have executed Business Associate agreements, if applicable, in connection with any Protected Health Information contained in any documents provided.
- b. Upon receipt of the above agreement and representation, the individual requesting the appeal will be provided with a copy of the following, if applicable:
 - (1) copies of, or reasonable access to, all patient medical records referred to in the statement of reasons, at the individual's expense;
 - (2) reports of experts relied upon by the Credentialing Committee;
 - (3) copies of relevant minutes (with portions regarding other physicians and unrelated matters deleted); and
 - (4) copies of any other documents relied upon by the Credentialing Committee.
- c. The provision of this information is not intended to waive any privilege under the Indiana peer review/health care services review protection statute.

3. Witnesses and Documents:

No later than ten (10) days prior to the appeal, the practitioner and the Credentialing Committee, shall furnish to the other party a written list of the names and addresses of the witnesses he or she intends to call at the appeal. Neither the practitioner, nor his or her legal counsel, nor any other person on behalf of the practitioner, shall contact ECM employees or staff or individuals appearing on the Credentialing Committee's witness list concerning the subject matter of the appeal, unless specifically and mutually agreed upon by and among the practitioner and Medical Director.

There is no right to discovery in connection with the appeal. Each party, however, shall provide the other party ten (10) days prior to the appeal copies of all documents (including, but not limited to patient medical records, incident reports, redacted committee minutes, memoranda, correspondence, books, or articles) that will be offered as evidence or relied upon by witnesses at the appeal, and which are pertinent to the basis for which the action is recommended or imposed. The Chair may address, and rule upon, any objections or other issues raised in connection with the exchange of documents. All documents shall be treated by the parties as confidential peer review information, shall not be disclosed to third parties not involved in the appeal and shall remain subject to the applicable peer review protections available under Indiana and federal law. Unless the parties agree otherwise, or unless a party demonstrates good cause for its noncompliance as determined by the Chair, a party will not be permitted to utilize documents or information at the appeal that are not timely disclosed to the other party.

VI. Appeal

- A. Right to Counsel: ECM and practitioner, are each entitled to representation by personal legal counsel and/or other person of choice who may present evidence, call, examine, and cross-examine witnesses. If the practitioner is represented by legal counsel, such representation is at his or her sole expense
- B. Admissibility of Evidence: The appeal shall not be conducted according to rules of law or procedures relating to the examination of witnesses or presentation of evidence. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the admissibility of such evidence in a court of law. Evidence or testimony that is not relevant and/or is repetitious in the determination of the Chair be excluded. The Appeals Committee may ask questions of the witnesses and may, on its own initiative, request the presence of expert or other witnesses, as it deems appropriate. All determinations of evidentiary appropriateness shall be made by the Chair. If the practitioner does not testify on his or her own behalf, he or she may be called and examined by the Credentialing Committee as if under cross-examination.
- C. Record of Appeal: The Appeals Committee shall maintain a record of the hearing by a court reporter who is present during the proceedings. The Appeals Committee shall require evidence to be taken only on sworn oath or affirmation administered by any person authorized to administer such oaths in the State of Indiana.
- D. Hearing Procedure: The Chair of the Appeals Committee will open the appeal by stating the purpose and protocol of the appeal.
 - 1. During the appeal, the practitioner will have the ability to exercise any or all of the rights as set forth in the Notice of Adverse Action.
 - 2. An ECM representative will present the reasons for the decision to reject or terminate the practitioner.

3. It is the practitioner's burden to demonstrate, by a preponderance of the evidence, that there is no reasonable basis for the adverse recommendation or decision. The practitioner will present reasons why his/her participation should not be rejected or terminated.
 4. Before the close of the appeal, each side may briefly summarize its position for the Appeals Committee if it chooses.
 5. The maximum duration of the appeal will be two (2) hours unless the Chair, in his or her discretion, determines that the appeal cannot reasonably be concluded in that time period.
 6. The appeal is closed upon conclusion of the presentation of oral and written evidence, and receipt of the appeal transcript. The practitioner shall have the right to submit a written statement to the Appeals Committee for its consideration in final deliberations. Such statement or submission is due to the Appeals Committee with copy to the Medical Director within seven (7) days following receipt of the hearing transcript by each party, unless otherwise extended by agreement of the parties. The Appeals Committee shall conduct its deliberations in private. If the Appeals Committee finds that the practitioner has not met his or her burden of proof, then it shall either recommend that the action recommended or taken by the Credentialing Committee be initiated or affirmed, as the case may be; or it may recommend some lesser or greater action as is appropriate in light of the evidence. All decisions must be reached by a majority vote.
 7. Within twenty-one (21) days after receipt of the appeal transcript, the Appeals Committee shall submit its written findings and recommendations to the Medical Director for notification to the Credentialing Committee and practitioner.
 8. If the practitioner fails to appear, participate or timely respond after notice and without sufficient cause as determined by the Appeals Committee, the practitioner will be deemed to have waived the right to a hearing.
- E. Notice of Committee Decision: The Medical Director shall notify the practitioner by certified mail, return receipt requested, within five (5) calendar days of receiving notification from the Appeals Committee of its final decision.

VII. Reporting to Authorities

When ECM takes a professional review action with respect to a practitioner's participation in one or more of its plans, networks or other arrangements, ECM may have an obligation to report such to the National Practitioner Data Bank and/or an applicable state licensing agency. ECM staff will comply with all state and federal regulations for the reporting of adverse actions and determinations relating to professional conduct and competence. These reports will be made to the appropriate, legally designated agencies.

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