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Title 22@ Social Security

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Division 3@ Health Care Services

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Subdivision 1@ California Medical Assistance Program

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Chapter 3@ Health Care Services

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Article 7.5@ HOSPITAL INPATIENT SERVICES REIMBURSEMENT SECTION

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Section 51552@ AA Formal Appeals Process

51552 AA Formal Appeals Process

(a)

A provider may appeal the Department's decision on the AAR for a final PIRL settlement only. There shall be no appeal on an AAR for a tentative PIRL settlement. The appeal shall be filed and conducted in accordance with the applicable procedural requirements of Article 1.5, except as modified by this section, including the following: (1) The appeal shall be submitted within 30 days after notification of the Department's decision on the AAR. (2) The provider shall present its issues and evidence first at the hearing, as they shall have the burden of going forward. (3) The provider has the burden of proof of demonstrating by a preponderance of the evidence, that the provider's position regarding disputed issues is correct. (4) In order to demonstrate that it is entitled to relief from the PIRL and that the AA decision should be overturned, the provider has the burden of demonstrating by a preponderance of the evidence that the Department's AA decision is inconsistent with the applicable regulatory provisions and that the provider's alternative is consistent with the applicable regulatory provisions. (5) If the Department's AA decision is proved, by a preponderance of evidence, inconsistent with the applicable regulatory provisions, and the provider has not proved by a preponderance of the evidence that its position is consistent with the applicable regulatory provisions, then the Administrative Law Judge (ALJ) may fashion whatever relief is necessary to obtain consistency with the applicable

regulatory provisions. (6) Items that are not subject to an AA, as specified in Section 51551, shall not be subject to appeal. (7) The provider shall be paid at the PIRL initially determined by the Department pending determination of a formal appeal. (8) Any underpayments, identified in the appeal decision, shall be repaid to the provider, together with interest computed at the legal rate of interest beginning the later of the date the payment is received by the Department or the date the appeal is formally accepted by the Department. (9) The evidence to be submitted by the provider at a formal appeal hearing that was not provided to the Department nor specifically and individually identified as available to the Department, during the AA process excluding oral testimony, must be submitted to the Department 30 days before the scheduled date of the hearing. The only exception, is when a hearing is scheduled within 45 days from the date notice is given. In this latter case, evidence must be submitted 15 days before the scheduled date of the hearing. Failure to submit this information within the specified time frames shall result in its exclusion from the formal appeal hearing and record. (10) Recalculation of the PIRL due to an appeal decision shall not give rise to any further appeal rights. (11) If results of an audit appeal of the cost report or any prior fiscal period PIRL, AA or appeal, change data used in the settlement fiscal period PIRL, the PIRL shall be recalculated. The recalculation shall not give rise to further appeal rights. (12) If an issue in an AAR is not accepted pursuant to Section 51550(e)(2) and (e)(3), the ALJ may only consider the evidence that was presented in the AAR and not any additional information or testimony. If the ALJ determines that the issue should have been accepted, the issue shall be remanded for a response to the merits. (13) Only those issues that were clearly identified in a timely filed AAR, including an estimated dollar amount for each issue may be accepted as issues on a formal appeal.

(1)

The appeal shall be submitted within 30 days after notification of the Department's decision on the AAR.

(2)

The provider shall present its issues and evidence first at the hearing, as they shall have the burden of going forward.

(3)

The provider has the burden of proof of demonstrating by a preponderance of the evidence, that the provider's position regarding disputed issues is correct.

(4)

In order to demonstrate that it is entitled to relief from the PIRL and that the AA decision should be overturned, the provider has the burden of demonstrating by a preponderance of the evidence that the Department's AA decision is inconsistent with the applicable regulatory provisions and that the provider's alternative is consistent with the applicable regulatory provisions.

(5)

If the Department's AA decision is proved, by a preponderance of evidence, inconsistent with the applicable regulatory provisions, and the provider has not proved by a preponderance of the evidence that its position is consistent with the applicable regulatory provisions, then the Administrative Law Judge (ALJ) may fashion whatever relief is necessary to obtain consistency with the applicable regulatory provisions.

(6)

Items that are not subject to an AA, as specified in Section 51551, shall not be subject to appeal.

(7)

The provider shall be paid at the PIRL initially determined by the Department pending

determination of a formal appeal.

(8)

Any underpayments, identified in the appeal decision, shall be repaid to the provider, together with interest computed at the legal rate of interest beginning the later of the date the payment is received by the Department or the date the appeal is formally accepted by the Department.

(9)

The evidence to be submitted by the provider at a formal appeal hearing that was not provided to the Department nor specifically and individually identified as available to the Department, during the AA process excluding oral testimony, must be submitted to the Department 30 days before the scheduled date of the hearing. The only exception, is when a hearing is scheduled within 45 days from the date notice is given. In this latter case, evidence must be submitted 15 days before the scheduled date of the hearing. Failure to submit this information within the specified time frames shall result in its exclusion from the formal appeal hearing and record.

(10)

Recalculation of the PIRL due to an appeal decision shall not give rise to any further appeal rights.

(11)

If results of an audit appeal of the cost report or any prior fiscal period PIRL, AA or appeal, change data used in the settlement fiscal period PIRL, the PIRL shall be recalculated. The recalculation shall not give rise to further appeal rights.

(12)

If an issue in an AAR is not accepted pursuant to Section 51550(e)(2) and (e)(3), the ALJ may only consider the evidence that was presented in the AAR and not any additional information or testimony. If the ALJ determines that the issue should have

been accepted, the issue shall be remanded for a response to the merits.

(13)

Only those issues that were clearly identified in a timely filed AAR, including an estimated dollar amount for each issue may be accepted as issues on a formal appeal.