



Title:	Practitioner Appeal Process				
Department/Line of Business:	Provider Network Operations / All Lines of Business				
Approver(s):	SWHP/ICSW Credentialing Committee				
Location/Region/Division:	SWHP				
Document Number:	SWHP.PNO.016.P				
Effective Date:	11/13/2018	Last Review/ Revision Date:	11/13/2018	Origination Date:	02/19/1997

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. Notice shall:

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

2. Advise the practitioner of his/her right to a fair hearing, and specify that he/she shall have 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 all material, favorable or unfavorable, which was considered in making the adverse decision.
3. State that failure to request a fair hearing within thirty (30) calendar days, or failure to personally appear at the scheduled hearing shall constitute 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. State 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 will also include practitioner rights

1. The right to be represented by an attorney or an individual of their choosing. The practitioner shall include 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 shall receive 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, shall promptly notify 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, shall schedule and arrange for such review. The hearing date shall be 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 shall state the time, place and date of the hearing, the composition of the Hearing Committee which shall be 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 shall contain 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 all material, favorable or unfavorable, which was considered in making the adverse decision will be furnished upon request by the practitioner, or his/her representative.
3. Any objection to the Hearing Committee appointees shall be 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 shall stand as appointed.
4. At least ten (10) calendar days prior to the hearing, each party shall furnish 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 shall update its witness list if and when additional witnesses are identified at least two (2) calendar days prior to hearing, and neither party shall call 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 shall be conducted by a designated committee consisting of at least three (3), but not more than five appointees, one of whom shall be 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. All appointees of the Hearing Committee shall sign a Confidentiality Agreement prior to receipt of any information regarding the practitioner to be reviewed.
5. The Chief Medical Officer, or Designated Physician, shall appoint at least one representative (attorney or non-attorney) to represent the Credentialing Committee at the hearing. The representative shall present facts in support of the adverse decision and examine witnesses.

Conduct of Hearing

1. There shall be 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 must be kept.
3. The personal presence of the practitioner for whom the hearing has been scheduled shall be required. A practitioner who fails without good cause to appear and proceed at such hearing shall be deemed to have waived his/her rights and to have accepted the adverse decision involved, and the same shall thereupon become and remain in effect.
4. Extension or acceleration of any time limits in the hearing process must be mutually agreed between the Chief Medical Officer, or Designated Physician, and the practitioner to be reviewed. Requests for postponement of a review shall be granted only upon a showing of good cause. A review shall be postponed no more than two (2) times.
5. The Chairperson of the Hearing Committee, shall preside over the hearing to determine the order of procedure during the hearing, to assure that all participants in the hearing have a reasonable opportunity to present relevant oral and documentary evidence, to maintain decorum at the hearing, to make all 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 shall be determined by the Chief Medical Officer or Designated Physician. A Hearing Officer may or may not be an attorney, but must be experienced in conducting hearings. The Hearing Officer shall act 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 shall not be entitled to vote.
7. The hearing process should not be conducted strictly according to rules of law relating to the examination of witnesses or presentation of evidence. The hearing process should not be 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 shall be 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, shall be entitled to submit either prior to or during the hearing, memoranda concerning any issue of procedure or of fact and such memoranda shall become 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 must be 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 should be available by phone, or in person, for questioning by the practitioner or Credentialing Committee representative. Witness statements shall become 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 shall at all times remain with the practitioner.
12. The Hearing Committee shall be entitled to consider any pertinent material contained in the practitioner's credential or peer review files and all 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 shall be 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 all 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 must be sent to all 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 shall be closed. The Hearing Committee shall conduct 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 shall make written report and recommendation. All findings and recommendations must be supported by reference to the review record and other documentation which was considered. The Hearing Committee shall forward the written report and recommendation, the review record and all other documentation to the Chief Medical Officer, or Designated Physician. The Chief Medical Officer, or Designated Physician, shall also transmit 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, shall present the written report and recommendation to the Credentials Committee, at which time the Credentials Committee shall consider the report and recommendation and affirm, modify, or reverse its decision.
2. The Chief Medical Officer, or Designated Physician, shall notify the practitioner, in writing by certified mail, return receipt requested, of the final decision of the Credentials Committee.

General Provisions

1. No practitioner shall be entitled as a right to more than one evidentiary hearing review on any matter that shall have 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 shall be deemed to have consented to the adverse decision and to have voluntarily waived all 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 all 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 shall 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 shall not be grounds for invalidating the action taken.
6. Any practitioner who incurs legal fees in his/her behalf shall be 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

The information contained in this policy is confidential and proprietary and may not be shared without the express permission of the Scott & White Health Plan. Further, the information contained in this document should not be considered standards of professional practice or rules of conduct or for the benefit of any third party. This document is intended to provide guidance and, generally, allows for professional discretion and/or deviation when the individual health care provider or, if applicable, the "Approver" deems appropriate under the circumstances.