



<b>Policy and Procedure No: CR 2.5</b>	<b>Revision No: 5</b>
<b>Division: Care Management</b>	
<b>Department: Credentialing</b>	
<b>Title: PHC-CA Provider Appeal and Fair Hearing Policy</b>	
<b>Effective Date: 1/15/2008</b>	
<b>Supersedes Policy No: CR 52.0, 99002, CR 2.0, CR 2.1, CR 2.2, CR 2.3, CR 2.4</b>	
<b>Reviewed/Revised by: Renee Barker</b>	<b>Review/Revision Date: 12/16/2025</b>
<b>Approving Committee: Credentialing Committee</b>	<b>Date: 12/16/2025</b>
<b>Executive Oversight Committee Date: 12/16/2025</b>	

**Purpose:**

To comply with State and Federal laws which mandate certain procedural rights are granted to a provider in the event that peer review recommendations and actions require a report be made to the State Licensing Board and/or the National Practitioner Data Bank (NPDB).

**Policy:**

PHC California (the Health Plan) maintains and communicates the process of providing procedural rights to providers when a final action of the Credentialing and Peer Review Committee and/or Board of Directors results in a report to the State Licensing Board and/or the NPDB.

**Procedure:**

1. Grounds for a hearing exist whenever the Credentialing and Peer Review Committee takes or recommends any of the following Adverse Actions for a Provider:
  - a. Denial of initial application for Provider status;
  - b. Revocation, termination of, or expulsion from Provider status;
  - c. Reduction of authority to provide care to Health Plan patients;
  - d. Suspend Provider from the Health Plan network for a cumulative period of more than thirty (30) days in any twelve (12) month period; or
  - e. Summary suspension of authority to provide care to Health Plan patients for more than fourteen (14) consecutive days; or
  - f. Any other final action by the Credentialing and Peer Review Committee and/or the Board of Directors that by its nature is reportable to the Licensing Board or the NPDB.
2. Notice of Action: If the Credentialing and Peer Review Committee has recommended an Adverse Action, the Committee notifies the provider of such action via certified mail with return receipt requested.
3. The Notice
  - a. Describes the nature of the proposed action or recommendation

- b. States that the proposed action or recommendation, if adopted, must be reported pursuant to State and Federal law
- c. Advises the Provider that he/she has the right to request a hearing on the proposed Adverse Action; and
- d. Informs the Provider that any request for hearing must be made in writing within thirty (30) days following receipt of the Notice of Action and must be sent to the Chief of Medicine by the Director of National Credentialing. Please be aware that any final action by the Peer Review and Credentialing Committee may have to be reported to licensing bodies and/or other applicable government authorities, if and where so required by state
- e. Informs the Provider the cost of the hearing officer will be split between the parties
- f. Contains a summary of the Providers Hearing Rights or attach this Policy.

#### 4. Request for a Hearing – Waiver

- a. If the Provider does not request a hearing in writing to the Chief of Medicine within thirty (30) days following receipt of the Notice of Action, the Provider is deemed to have accepted the action or recommendation of the Credential and Peer Review Committee, and such action or recommendation is submitted to the Board of Directors for final decision.
- b. In the event that a timely written Request for Hearing is received, a Hearing Officer and/or hearing panel is appointed as set forth below and the Credentialing and Peer Review Committee provides the Provider with a Notice of Hearing and Statement of Charges consistent with this policy.
- c. A Provider who fails to request a hearing within the time and in the manner specified above waives his or her right to any hearing or appellate review to which he or she might otherwise be entitled.
- d. If the Provider waives his or her right to any hearing or appellate review by failing to request a hearing within the time and in the manner specified above, the recommendation of the Credentialing and Peer Review Committee taking or recommending the Adverse Action will be forwarded to the Board of Directors for final approval.
- e. In the event of a submittal to the Board upon the Provider’s waiver as set forth herein, the Credentialing and Peer Review Committee submits to the Board additional information relevant to its recommended adverse action to be considered by the Board in accepting or rejecting the recommended adverse action.

#### 5. Appointment of a Hearing Committee

- a. Composition of Hearing Committee.
  - i. The Assistant General Counsel selects the individuals to serve on the Hearing Committee.
  - ii. The Hearing Committee consists of individuals who are not in direct economic competition with the subject Provider; who gains no direct financial benefit from the

outcome of the Hearing; and, who are not acting as accuser, investigator, fact finder, initial decision maker or otherwise have not actively participated in the consideration of the matter leading up to the recommendation or action.

- iii. General knowledge of the matter involved does not preclude a physician from serving as a member of the panel.
- iv. The panel consists of at least three, but no more than five, Providers and includes whenever feasible, at least one individual practicing the same specialty as the affected Provider.

#### 1. Scope of Authority

The Hearing Committee will have the authority to interpret and apply this policy insofar as it relates to their powers and duties.

#### 2. Responsibilities

The Hearing Committee:

- a. Evaluates evidence and testimony presented.
- b. Based on clear and convincing evidence decide whether the adverse action or recommendation lacks any substantial factual basis or that the conclusions drawn there from are either arbitrary, unreasonable or capricious.
- c. Maintain the privacy of the hearing unless the law provides to the contrary.

#### 3. Vacancies

In the event of a vacancy in a hearing panel after a hearing has commenced, the remaining panel members may continue with the hearing and determination of the controversy, unless the parties agree otherwise.

#### 4. Disclosure and Challenge Procedures

Any person appointed as member of the Hearing Committee will disclose to the Chief of Medicine any circumstance likely to affect impartiality, including any bias or a financial or personal interest in the result of the hearing or arbitration or any past or present relationship with the parties or their representatives.

### B. Hearing Officer

#### 1. Selection

As soon as reasonably possible, the Chief of Medicine will appoint a Hearing Officer, who may be an attorney. The Hearing Officer will gain no direct financial benefit from the outcome of the Hearing and will not act as a prosecuting officer or advocate and will not be entitled to vote.

#### 2. Scope of Authority

The Hearing Officer will have sole discretion and authority to:

- a. Exclude any witness, other than a party or other essential person, during the testimony of any other witness.
- b. Determine the attendance of any person other than the parties and their counsel and representatives.
- c. For good cause shown to postpone any hearing upon the request of a party or upon a Hearing Committee's own initiative and will also grant such postponement when the parties agree thereto.

### 3. Responsibilities

The Hearing Officer:

- a. Will guide the hearing process, including endeavoring to assure that all participants in the hearing have a reasonable opportunity to be heard and to present relevant oral and documentary evidence in an efficient and expeditious manner;
- b. Make certain that proper decorum is maintained;
- c. Be entitled to determine the order of, or procedure for, presenting evidence and argument during the hearing; and
- d. Make all rulings and questions which pertain to matters of law, procedure and the admissibility of evidence.

If the Hearing Officer determines that either side in a hearing is not proceeding in an efficient and expeditious manner, the Hearing Officer may take such discretionary action deemed warranted by the circumstances. If requested by the Hearing Committee, the Hearing Officer may participate in the deliberations of the Hearing Committee and is a legal advisor to it but will not be entitled to vote.

#### C. Time and Place of Hearing

Upon receipt of a Request for Hearing, the Chief of Medicine will schedule and arrange for a hearing. The Chief of Medicine will give notice to the affected Provider of the time, place and date of the hearing, as set forth below. The date of commencement of the hearing will be not less than thirty (30) days from the date of the Notice of the Hearing, or more than sixty (60) days from the date of receipt of the Request for Hearing. Notwithstanding the above time frames, the parties may agree to extensions or the Hearing Officer may grant an extension on a showing of good cause. If more than one meeting is required for a hearing, the Hearing Officer will set the date, time, and location for additional meetings.

#### D. Notice of Hearing

The Notice of Hearing will contain and provide the affected Provider with the following:

1. The date, time and location of the hearing;
2. The name of the Hearing Officer;
3. The names of the Hearing Committee Members;
4. A concise statement of the affected Provider's alleged acts or omissions giving rise to the adverse action or recommendation, and any other reasons or subject matter forming the basis for the adverse action or recommendation which is the subject of the Hearing;
5. The names of witnesses, so far as they are then reasonably known or anticipated, who are expected to testify on behalf of the Credentialing and Peer Review Committee, provided the list may be updated as necessary and appropriate, but not later than ten (10) days prior to the commencement of the Hearing.
6. A list of all documentary evidence forming the bases of the charges reasonably necessary to enable the Provider to prepare a defense, including all documentary evidence which was considered by the Credentialing and Peer Review Committee in recommending adverse action.
7. Except with regard to the disclosure of witnesses as set forth above, the Notice of Hearing may be amended from time to time, but no later than the close of the case at the conclusion of the Hearing by the Hearing Committee. Such amendments may delete, modify, clarify or add to the acts, omissions, or reasons specified in the original Notice of Hearing.

E. Pre-hearing Procedures

1. The Provider will have the following pre-hearing rights:
  - a. To inspect and copy, at the Provider's expense, documents upon which the charges are based which the Credentialing and Peer Review Committee has in its possession or under its control; and
  - b. To receive at least thirty (30) days prior to the hearing, a copy of the evidence forming the basis of the charges which is reasonably necessary to enable the Provider to prepare a defense, including all evidence which was considered by the Credentialing and Peer Review Committee in recommending Adverse Action.
2. The Hearing Committee will have the following pre-hearing right  

To inspect and copy, at the Health Plan's expense, any documents or other evidence relevant to the charges which the Provider has in his or her possession or control as soon as practicable after receiving the request.
3. The Hearing Officer will consider and rule upon any request for access to information and may impose any safeguards required to protect the peer review process and privileges. In so doing, the Hearing Officer will consider:
  - a. Whether the information sought may be introduced to support or defend the charges;

- b. The exculpatory or inculpatory nature of the information sought, if any;
  - c. The burden imposed on, the party in possession of the information sought, if access is granted; and
  - d. Any previous requests for access to information submitted or resisted by the parties.
4. The Provider will be entitled to a reasonable opportunity to question and object to or challenge the impartiality of members of the Hearing Committee and the Hearing Officer. Challenges to the impartiality of any Committee member or the Hearing Officer will be ruled on by the Hearing Officer.
  5. It will be the duty of the Provider and the Credentialing and Peer Review Committee to exercise reasonable diligence in notifying the Hearing Officer of any pending or anticipated procedural disputes as far in advance of the scheduled hearing as possible, in order that decisions concerning such matters may be made in advance of the hearing. Objections to any pre-hearing decisions may be succinctly made at the hearing.
  6. Failure to disclose the identity of a witness or produce copies of all documents expected to be produced at least ten (10) days before the commencement of the hearing will constitute good cause for a continuance or limitation of the evidence or the testimony if deemed appropriate by the Hearing Officer.
  7. The right to inspect and copy by either party does not extend to confidential information referring solely to individually identifiable physicians or patients, other than the Provider under review, or to information, interviews, reports, statements, findings and conclusions resulting from studies or other data prepared specifically to be submitted for review purposes made privileged by operation of State Law.

F. Conduct of Hearing

1. Rights of the Parties

Within reasonable limitations and as long as these rights are exercised in an efficient and expeditious manner, both sides at the hearing may:

- a. Call and examine witnesses for relevant testimony;
- b. Introduce relevant exhibits or other documents;
- c. Cross-examine or impeach witnesses who will have testified orally on any matter relevant to the issues;
- d. Otherwise rebut evidence;
- e. Have a record made of the proceedings;
- f. Submit a written statement at the close of the hearing; and

- g. Receive the written recommendation of the Hearing Officer or Hearing Panel, including a statement of the basis for the recommendations, upon completion of the hearing.

The Provider may be called by the Credentialing and Peer Review Committee and examined as if under cross-examination.

## 2. Course of the Hearing

- a. Each party may make an oral opening statement.
- b. The Credentialing and Peer Review Committee will call any witnesses and present relevant documentary evidence to support its recommendation. The affected Provider may then call any witnesses and present relevant documentary evidence supporting his/her defense.
- c. The Hearing Committee or Officer has the discretion to vary this procedure but will afford a full and equal opportunity to all parties for the presentation of material and relevant evidence and for the calling of witnesses.
- d. The Hearing Committee will be the judge of the relevance and materiality of the evidence offered, and conformity to legal rules of evidence will not be necessary. Evidence will be taken in the presence of the entire Hearing Committee and the parties, except where agreed to by the parties or determined by the Hearing Officer.

## 3. Use of Exhibits

- a. Exhibits, when offered by either party, may be received in evidence by the Hearing Committee as ruled upon by the Hearing Officer.
- b. A description of the exhibits in the order received will be made a part of the record.

## 4. Witnesses

- a. Witnesses for each party will submit to questions or other examination.
- b. The Hearing Officer will have the power to sequester witnesses (exclude any witness, other than a party or other essential person, during the testimony of any other witness). The names and addresses of all witnesses and a description of their testimony in the order received will be made a part of the record.
- c. The Hearing Committee may receive and consider the evidence of witnesses by affidavit but will give it only such weight as the Hearing Committee deems it is entitled to after consideration of any objection made to its admission.
- d. The party producing such witnesses will pay the expenses of witnesses for either side.

## 5. Rules for Hearing

a. Attendance at Hearings

Only those people who have a direct interest in the hearing are entitled to attend the hearing. This means that the hearing will be closed except for the parties and their representatives. The only exception to this being when good cause is shown which is satisfactory to the Hearing Officer that it is necessary in the interest and fairness of the hearing to have others present.

b. Communication with Hearing Committee

There will be no direct communication between either party and the Hearing Committee other than at the hearing, unless the parties and the Hearing Committee agree otherwise. Any other oral or written communication from the parties to the Hearing Committee will be directed to the Hearing Officer for transmittal to the Hearing Committee.

c. Interpreter

Any party wishing an interpreter will make all arrangements directly with the interpreter and will assume the costs of the services.

G. Close of the Hearing

The Hearing Committee will dismiss all parties, deliberate, and render a decision as provided in this policy.

Within thirty (30) days after final adjournment of the Hearing, the Hearing Committee will render a written decision and report, including findings of fact and a conclusion articulating the connection between the evidence produced at the Hearing and the decision reached. If the Hearing Committee sustains the recommendation of the Credentialing and Peer Review Committee taking or recommending the adverse action to take an Adverse Action, the affected Provider has a right to an appellate review of the issues specified below. Alternatively, the Credentialing and Peer Review Committee taking or recommending the Adverse Action may also appeal the decision. Such written decision and an explanation of the procedure for appeal to the Board of Directors or its designee will be mailed promptly to the Provider and to the Credentialing and Peer Review Committee taking or recommending adverse action.

The decision of the Hearing Committee will be made by majority vote. For the purposes of this policy, final adjournment will occur when the Hearing Committee has concluded its deliberations and issued a written decision.

H. Burden of Proof

In all cases it will be incumbent on the Credentialing and Peer Review Committee taking or recommending an Adverse Action to come forward initially with substantial evidence in support of its action or decision. Thereafter, the Provider who requested the hearing will come forward with evidence in his/her support.

The burden of proof during a hearing will be as follows:

## 1. Burden - Initial Applicant

A Provider who requested the Hearing to challenge a recommendation to deny an application for Provider status (initial applicant) will have the burden of persuading the Hearing Committee, by clear and convincing evidence, that the Recommendation for Adverse Action lacks any substantial factual basis or that the conclusions drawn there from are arbitrary and capricious. The initial applicant will not be permitted to introduce information during a hearing that was not produced, to AHF during the application process, unless the initial applicant establishes that the information could not have been produced previously in the exercise of reasonable diligence.

## 2. Burden - All Others

Except as provided above, the Credentialing and Peer Review Committee taking or recommending the Adverse Action will bear the burden of persuading the Hearing Committee, by a preponderance of the evidence, that its action or recommendation is reasonable and warranted. The term "reasonable and warranted" means within the range of alternatives reasonably available to the Committee taking or recommending Adverse Action under the circumstances and not necessarily that the action or recommendation is the only measure or the best measure that could have been taken or formulated in the opinion of the Hearing Committee.

### I. Provider Failure to Appear or Proceed

Failure, without good cause, of the Provider to personally attend and proceed at a hearing in an efficient and orderly manner will be deemed to constitute voluntary acceptance of the recommendations or actions involved.

### J. Record of the Hearing/Oath

A court reporter will be present to make a record of the Hearing proceedings and the pre-Hearing proceedings, if deemed appropriate by the Hearing Officer. The cost of attendance of the reporter will be borne by the Health Plan, but the cost of the transcript, if any, will be borne by the party requesting it. The Hearing Officer may, but will not be required to, order that oral evidence will be taken only on oath administered by any person lawfully authorized to administer such oath.

### K. Representation

Both parties will be entitled to be accompanied by an attorney at law, or other representative at the Hearing to represent its interests, to present its case, offer materials in support thereof, examine witnesses, and respond to appropriate questions.

### L. Postponements

The Chair of the Hearing Committee, for good cause shown, may postpone any hearing upon the request of a party or upon the Hearing Committee's own initiative and will also grant such postponement when all of the parties agree, thereto.

### M. Appeal of Hearing Decision (if applicable)

Either party may appeal the decision of the Hearing Committee by written request to the Board of Directors. A request for appeal must be made within thirty (30) days after the date of receipt of the Hearing Committee's decision. Written request for appeal will include the grounds for appeal as set forth below and a concise statement of the facts in support of the appeal.

The grounds for appeal are limited to:

1. Substantial non-compliance with the procedures required herein or applicable law which has created demonstrable prejudice; and/or
2. The decision was not supported by substantial evidence based on the Hearing record.

Failure to request an appellate review within the time and manner specified above will result in a waiver of the right to an appellate review. If there is a waiver of the right to appeal by the Provider, the recommendation of the Credentialing and Peer Review Committee taking or recommending the Adverse Action will be forwarded to the Executive Oversight Committee of the Board of Directors (EOC) for final approval.

#### N. Composition of Appeal Board

The Associate General Counsel will designate a panel of not less than three (3) individuals, including not less than one (1) Plan Provider to serve as an Appeal Board. General knowledge of the matter involved will not preclude any person from serving as a member of the Appeal Board, so long as that person was not previously involved with the same matter. The Appeal Board may, at its discretion, select an attorney to act as an Appellate Review Hearing Officer. If such an attorney is selected, he or she will have all the authority of and carry out all duties assigned to a Hearing Officer at the Hearing stage. The attorney will not be entitled to vote with respect to the Appeal.

#### O. Notification of Time and Place of Appeal

The Appeal Board will notify the concerned Provider within fifteen (15) days after the date of receipt of notice for Appeal, of the time and place of the Appeal Review. The Appeal Review will not occur less than fifteen (15) days, nor more than sixty (60) days after the date of the notice of the Appeal to the Provider.

#### P. Rights of Parties

Both parties have the right to appear and respond at the Appellate Review and to be represented by an attorney or any other representative designated by the party.

#### Role of Appellate Review

The Appeal Board, except for good cause, determined in the Appeal Board's discretion:

1. Will not receive evidence or testimony; and
2. Will afford the opportunity for the parties to appear and present arguments personally; and

3. Will act upon the record of the hearing and the arguments presented when the Appeal is heard; and
4. Will prepare a written decision within thirty (30) days after the date of the Appeal Review, which will be final and forwarded to the Board of Directors and the Provider; and
5. May accept, reverse, or modify the decision of the Hearing Committee, or may require further review or remand the action.

**Q. Notification of Appellate Review Finding**

The Appeal Board will make its decision along with a report outlining the basis of its decision to the Chief of Medicine, the Board of Directors, or Credentialing and Peer Review Committee imposing the action, and the affected Provider.

**R. Exhaustion of Remedies**

If any of the above Adverse Actions are taken or recommended, the Provider must exhaust the remedies afforded by these procedures before resorting to legal action.

**S. Reporting**

In the event the EOC adopts the proposed action or recommendation of the Credentialing and Peer Review Committee taking or recommending the Adverse Action, the Health Plan will submit a report to the State Medical Licensing Board and/or the National Practitioner Data Bank (NPDB), if applicable. Reports will be made in accordance with the Credentialing Program Policy.

**Definitions:**

1. Adverse Action is an action which would entitle a Provider to a hearing, as set forth in Section B (I)-(4) below.
2. Provider: is a health care provider, as that term is defined by State Regulator, who is eligible to provide care to Health Plan enrollees by virtue of (1) a contract with AHF to provide such care and (2) having been credentialed by the Health Plan or its designee to provide such care.
3. Days: as used in this policy, will mean calendar days. In computing any period of time prescribed or allowed by this policy, the day of the act or event from which the designated period of time begins will not be included.
4. Medical Disciplinary Cause or Reason: means a basis for corrective action involving an aspect of a Provider's competence or professional conduct which is reasonably likely to be detrimental to patient safety or the delivery of quality care.
5. Notice: means written notification sent by certified or registered mail, return receipt requested or personal delivery.
6. Credentialing and Peer Review Committee as used in this policy, will mean a Health Plan quality committee or the designee of such a committee.

7. Provider: for purpose of this policy includes a health care provider with Health Plan Provider status as well as those who are applicants for Health Plan participation.

**Monitoring:**

This policy will be reviewed and revised, as necessary, and approved annually by the Credentialing and Peer Review Committee.

Any findings discuss at the Peer Review and Fair Hearing meeting will be reported to the Executive Oversight Committee (EOC) Board of Directors.

