

9505.5105 FAIR HEARINGS AND APPEALS.

Subpart 1. **Appealable actions.** A recipient may appeal any of the following department actions:

A. the department has failed to act with reasonable promptness on a request for prior authorization as established under part 9505.5020, subpart 1, or the medical review agent has failed to act on an authorization request under the second medical opinion program, within the time specified in parts 9505.5035 to 9505.5091;

B. the department has denied a request for prior authorization under part 9505.5020, subpart 1;

C. the medical review agent has denied an authorization request under the second medical opinion program subsequent to a reconsideration conducted according to part 9505.5078; or

D. the department has proposed a reduction in service as an alternative to authorization of a proposed service for which prior authorization under part 9505.5020, subpart 1, was requested.

Subp. 2. **No right to appeal.** The right to appeal shall not apply to the list of surgical procedures established according to Minnesota Statutes, section 256B.0625, subdivisions 1, 4a, and 24.

Subp. 3. **Request for fair hearing.** When a recipient requests assistance from a local agency in filing an appeal with the department, the local agency shall provide the assistance.

The request for a hearing must be submitted in writing by the recipient to the appeals unit of the department. The request must be filed either:

A. within 30 days of the date notice of denial of the request for prior authorization under part 9505.5020, subpart 1, or request for authorization of a surgical procedure was received; or

B. no later than 90 days from the date notice of denial was received if the appeals referee finds there was good cause for the delay.

Subp. 4. **Fair hearing.** A referee shall conduct the hearing according to Minnesota Statutes, section 256.045, subdivision 4.

Subp. 5. **Commissioner's ruling.** Within 90 days of the date of receipt of the recipient's request for a hearing, the commissioner shall make a ruling to uphold, reverse, or modify the action or decision of the department or the medical review agent. The commissioner's ruling shall be binding upon the department and the recipient unless a request for judicial review is filed pursuant to Minnesota Statutes, section 256.045, subdivision 7.

Statutory Authority: *MS s 256.0625; 256.9352; 256.991; 256B.04; 256D.03; 256L.02*

History: *10 SR 842; L 1988 c 689 art 2 s 268; 13 SR 1688; 19 SR 2433; 20 SR 2405*

Published Electronically: *August 12, 2008*