

**9510.2040 SURCHARGE APPEALS.**

Subpart 1. **When allowed.** A nursing home, Minnesota hospital, or HMO may appeal the amount of each medical care surcharge payment assessed under Minnesota Statutes, section 256.9657.

Subp. 2. **Criteria.** To be effective, an appeal must meet the criteria in items A and B.

A. The nursing home, Minnesota hospital, or HMO must appeal to the commissioner in writing. The appeal must be received by the commissioner no later than 30 days after the nursing home, Minnesota hospital, or HMO receives notice of the medical care surcharge amount. Unless the nursing home, Minnesota hospital, or HMO can establish a different date of receipt, the commissioner shall determine the date of receipt of the notice of the medical care surcharge amount to be three days after the notice was mailed by the commissioner, excluding Sundays and holidays.

B. The appeal must specify:

- (1) the basis for the dispute;
- (2) the computation and the amount the appealing party believes to be correct;
- (3) the name and address of the person or firm with whom contacts may be made regarding the appeal; and
- (4) a statement under oath indicating the date on which the payment notice was received by the appealing party.

Subp. 3. **Resolution.** The commissioner and the appealing party may attempt to resolve the appeal informally. If the dispute is not resolved informally between the commissioner and the party filing the appeal under subpart 2, item A, the appeal will be heard according to the contested case provisions in Minnesota Statutes, chapter 14, and the rules of the Office of Administrative Hearings. Upon agreement of both parties, the dispute may be resolved informally through any modified appeal procedures established by agreement between the commissioner and the chief administrative law judge.

Subp. 4. **Surcharge payment during appeal.** The monthly medical care surcharge amounts established by the commissioner before an appeal must be paid by the dates due while an appeal is pending.

Subp. 5. **Resolution of appeal.** If an appeal results in a determination that payment is due the appealing party, the commissioner shall settle-up with the appellant after the exhaustion of the appeal process. For purposes of this subpart, "exhaustion of the appeal process" means within 45 days of the date of the final decision of the court of appeals or the Minnesota Supreme Court if such a judicial review is sought. If no judicial review is sought, "exhaustion of the appeal process" means within 45 days of the date of the final decision of the commissioner.

Subp. 6. **Monthly appeals.** An appeal must be filed for each month's disputed medical care surcharge amount due. The appeals may be consolidated in a contested case hearing under Minnesota Statutes, chapter 14. The medical care surcharge amount shall not be adjusted for any month for which an appeal was not filed.

**Statutory Authority:** *MS s 256.9657; 256B.74*

**History:** *17 SR 2860*

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