

MELVIN D. MARX, P.A.

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

www.melvinmarx.com

**Melvin D. Marx
Adebukola Ogunsanya
Jennifer F. Wynn**

**260 Columbia Ave, Suite 6
Fort Lee, New Jersey 07024
T: (201)242-5800 F: (201)242-5808**

MEMORANDUM

Date: April 21, 2017

Re: Internal Appeal Process NJAC 11:3-4.7B.

Dear Providers:

As we previously advised on 2/7/17, NJAC 11:3-4.7B which covers the internal appeal process went into effect on 4/17/17.

Now, the carriers have begun to provide their DOBI “approved” Decision Point Review Plan (DPRP) which will guide how the uniform pre-service and post-service appeal forms are instituted. NJAC 11:3-4.7B is the 30-14-45-30 day appeal process, however, a review of several of the carriers DPRP indicates an attempt to create loopholes by limiting the opened nature of the post-appeal timeline and adding more days to complete their review. Our office will be working with other entities to deal with the discrepancies we have identified in some of these approved plans. We will also be registering a complaint with DOBI.

For now, this office’s position is compliance with the stated rule in the administrative code: 30-14-45-30 day appeal process.

Notwithstanding, we have created our “chart” outlining the respective fax number etc., regarding each providers DPRP. Please note that the ultimate responsibility is still yours. It is up to you to keep tabs of any further changes. This is a courtesy from our office to assist you with the process.

- ❖ General Rule: Only workdays count, that is, Monday through Friday when counting your timeline for your pre-certification and internal appeal process.
- ❖ Secondary Providers (MRI facilities, ASC, Hospitals, and Anesthesiologist etc.): Post-service is your goal. However, make it an office practice to ask the surgeon to get you a copy of the pre-service appeal for your records. For example, certain carriers (USAA) think ASCs should be requesting pre-service appeals! DOBIs comment on this issue is noted below:

The Department does not agree with the commenter. An ASC is a “provider” as defined by NJAC 11:3-4.2 and, as such, is able to submit pre- and post-

service appeals. There are several types of providers that are not involved in determining the medical necessity of a test, treatment, or procedure, but who submit bills to the insurer for the services they do tender. When these provider disagree with the insurer's reimbursement of the service, their recourse is a post-service appeal. **The commenter is correct that in these circumstances, the determination of the medical necessity of a test, treatment, or procedure is being made by a different provider, and therefore, the provider is responsible for submitting pre- or post-service appeals on the issue of medical necessity.**"

❖ Each Issue Gets One Appeal Rule.

"If I appeal medical necessity pre-service, do I have to do a post-service appeal after my bills are a denied. The EOB denotes not medically necessary and no payment issued. YES YOU DO!"

In a DOBI comment and response, DOBI noted this example as an application of the rule "For example, a provider submits a request for a proposed treatment that is denied by the insurer. The provider submits a pre-service appeal that is also denied. The service is performed and the provider submits the bill to the insurer for payment. The insurer sends an EOB that denies reimbursement based on the prior medical necessity denial. The present language may suggest to the provider that a post-service appeal may be filed challenging what the insurer should reimburse."

❖ APPEALS MUST BE SIGNED.

- This means the treating provider must sign the appeals, either electronically or manually.

- The appeal forms must be signed by the provider. However, where a surgical center is the provider, is the signature of the head of billing sufficient since it is a surgical facility? The individual physicians do not have offices at the surgical center.

A: N.J.A.C. 11:3-4.2 defines "provider" as including hospitals and health care facilities licensed or certified to provide health care treatment or services reimbursable under PIP. This would include ASCs. **In the case of an ASC or other facility, the person signing the appeal form should be the responsible party at the facility who is able to make the certification required on the bottom of the form that the information is true & correct, etc.**

❖ We recommend adding this bulb to the end of your appeal narratives: NJAC 11:3-4.8(f) in administering decision point review and precertification, insurers shall avoid undue interruptions in a course of treatment.....

Below is just a quick overview:

A. Pre-Certification Request:

- **USE** the Attending Treatment Provider Plan to request the services.
- **ALWAYS** attach your treatment records with the APTP
- Make sure you are faxing to the proper entity per the DPRP of the carrier.
- **ALWAYS** retain your fax confirmation in your files.

- ⊖ RULE OF THUMB: Failure to respond within 72 hours (workdays not inclusive of weekends) is treated as a tacit approval.
- ✓ SURGERY PRE-CERTS
 - a. NJPLIGA, Plymouth, and NJM require using their own surgery pre-cert form which must be accompanied with your standard APTP.
 - b. ALWAYS request anesthesia explicitly with your APTP. It protects your anesthesiologist from Pre-Certification Penalties.

B. Results from a Pre-Certification Request:

- ⊖ You can get a DPR based denial i.e. eligibility, misrepresentation, termination of benefits etc.

OR

- ⊖ As most DPRP now state the following decisions can be communicated to you:

- ✚ Approved

- ✚ Denied.

- ✚ Modified

- ✚ Administrative Denial – Failure to submit “Attending Provider Treatment Plan” or an incomplete Decision Point Review and Precertification treatment request, not legible etc.

- ✚ Retrospective DOS – If the request for treatment/testing/Durable Medical Equipment is for a Date of Service which has already occurred, a decision of Retrospective DOS will be rendered.

- ✚ Pended to IME that is an IME is to be scheduled.

- ✚ Restricted – Provider prohibited from submitting Decision Point Review/Precertification. Provider will be instructed that the submission must be made by the referring/treating provider. Previously Requested.

RULE: NO OUTRIGHT APPROVAL MEANS APPEAL!

EACH ISSUE GETS AN APPEAL!

- C. Pre-service appeals: means I must submit an appeal before I render treatment. Hence, it will be very important to pay attention to the responses received from the carrier to a specific APTP.

- ✓ Use the Uniform PIP Pre- Service Appeal!

We suggest, you think of this form as a cover letter. It informs the carrier on the nature of the dispute and to look at the attachments which support your contention. Your attachments should include – **carriers denial (if there is one; if one does not exist- make sure you advise them of same); your original pre-certification request- APTP only; narrative report stating why their adverse determination is wrong; additional new documentation and your treatment records and/or secondary sources.**

Suggestions:

- ⊖ See the DPRP to see which lines of Uniform pre-service are mandatory to be completed for each carrier.

- ⊖ Section 29 of the form: when supplying the documents indicated in section 29, the Provider/Facility would only need to supply associated/supporting records if they are new/in addition to the original associated/supporting records supplied

- ✓ **Make sure you do it at least 30 days after receipt of the adverse determination!** In short, make it your practice rule to **try** to do a pre-service before you treat!

Rationale:

- ⊖ Some carriers will treat any pre-service done after the 30day timeline as a new pre-certification request guaranteeing you will get a 50% penalty.
- ⊖ Others will simply state it is an administrative denial which according to their DPRP means no appeal done.

- ✓ **PROVIDERS control the timeline.** The earlier you get the pre-service in, the earlier the 14 day response time is triggered.

****Be on the look-out for the appeal responses and if additional information is requested****

D. **Post-service appeals:** means **I must submit an appeal AFTER I have submitted my bill AND I am dissatisfied with the outcome including non-payment.**

- **This office takes the position that all providers should always do a post-service appeal especially for Non-payment.** *Our inside information indicates the carriers are looking for providers to stumble on this post-service issue under the assumption the central issue has been appealed so no need to appeal EOB denial. Non-payment, UCR issues, improper calculation, improper audit etc. are all ISSUES worthy of post-service appeal.*

- ✓ **Use the Uniform PIP Post- Service Appeal!**

We suggest, you think of this form as a cover letter. It informs the carrier on the nature of the dispute and to look at the attachments which support your contention. Your attachments should include – **bill, EOB (if available. If not explain same), appeal narrative); your original pre-certification request- APTP only; narrative report.**

*One form = one EOB (If there is one, if not one bill).

*More than one post- service appeal form can be submitted at the same time

* **The code sections of 33 & 38 might not apply to your type of denial, this is why it is essential to have an appeal narrative report.**

Example of a Non-payment post-appeal narrative (sample only!):

The date range of 4/5/17-5/20/17 was denied and NOT PAID in the attached EOB as not medically necessary. I disagree with the non-payment as I have clearly established medical necessity in my 4/17/17 pre-service appeal with the respective supporting documentation. There is simply no reason for non-payment of these services performed in accordance with the NJ Care path and the Professional medical guidelines. Please promptly issue payment otherwise this matter will be resolved via a Dispute process (N.J.A.C. 11:3-5).

- ✓ **No response or continued denial after your post-service appeal = Arbitration.** As it is our office policy, you can send your file immediately after the post-service appeal.

If you have any questions, please do not hesitate to contact our office at 201-242-5800 or reach Melvin D. Marx at mdm@melvinmarx.com; Adebukola “Buki” Ogunsanya at ao@melvinmarx.com; and, Jennifer Wynn at jw@melvinmarx.com

As we all get our hands around this internal appeal issue, we will be sending out periodic updates including a narrative appeal template and information on our DOBI complaint. Additionally, our website – www.melvinmarx.com will contain updates and blogs entries.

Thank you for your attention

Very truly yours,



Adebukola Ogunsanya for the Firm

Enclosures

NEW JERSEY PIP PRE-SERVICE APPEAL FORM

TYPE OR PRINT LEGIBLY AND KEEP WITHIN THE LINES OF THE SPACE PROVIDED

1. DATE APPEAL SUBMITTED

2. RECEIPT DATE OF ADVERSE DECISION

CLAIM INFORMATION

3. INSURANCE COMPANY

4. CLAIM #

5. DATE OF LOSS

PATIENT INFORMATION

6. LAST NAME

7. FIRST NAME

8. MIDDLE INITIAL

9. DATE OF BIRTH

10. ADDRESS (No. Street)

11. CITY

12. STATE

13. ZIP

PROVIDER/FACILITY INFORMATION

14. LAST NAME

15. FIRST NAME

16. FACILITY-OFFICE NAME

17. SPECIALTY

18. TAX ID #

19. NPI #

20. ADDRESS (No. Street)

21. CITY

22. STATE

23. ZIP

24. TELEPHONE # (Include Area Code)

25. FAX # (Include Area Code)

26. EMAIL ADDRESS

27. PROVIDER AVAILABILITY DAYS OF WEEK:

MONDAY

TUESDAY

WEDNESDAY

THURSDAY

FRIDAY

28. PROVIDER AVAILABILITY TIME OF DAY:

FROM

TO

DOCUMENTS INCLUDED

29. CHECK THOSE APPLICABLE BELOW (Include Proof of Receipt if Applicable)

- | | | |
|-----------------------------------------------------------------------|-----------------------------------------------------------|------------------------------------------------------|
| <input type="checkbox"/> *ORIGINAL APTP FORM | <input type="checkbox"/> *APTP DECISION/RESPONSE DOCUMENT | <input type="checkbox"/> *APPEAL RATIONALE NARRATIVE |
| <input type="checkbox"/> INDEPENDENT MEDICAL EXAM REPORT | <input type="checkbox"/> DIAGNOSTIC REPORT(S) | <input type="checkbox"/> PEER REVIEW REPORT |
| <input type="checkbox"/> OTHER SUPPORTING DOCUMENTS (Describe): _____ | | |

PRE-SERVICE APPEAL ISSUES

30. DATE(S) OF REQUEST

FROM



TO

31. CPT, HCPCS, NDC

32. RESPONSE NOT RECEIVED WITHIN 3 BUSINESS DAYS
YES INDICATE WITH X

33. ADMINISTRATIVE DISPUTE
YES INDICATE WITH X

34. MEDICAL NECESSITY DISPUTE
YES INDICATE WITH X

MM

DD

YY

MM

DD

YY

MM	DD	YY	MM	DD	YY	31. CPT, HCPCS, NDC	32. RESPONSE NOT RECEIVED WITHIN 3 BUSINESS DAYS YES INDICATE WITH X	33. ADMINISTRATIVE DISPUTE YES INDICATE WITH X	34. MEDICAL NECESSITY DISPUTE YES INDICATE WITH X

* Indicates minimum documents required that must be included with the submission of this form with ADDITIONAL/NEW supporting records only

FRAUD PREVENTION-NEW JERSEY WARNING

ANY PERSON WHO KNOWINGLY FILES A STATEMENT OF CLAIM CONTAINING ANY FALSE OR MISLEADING INFORMATION IS SUBJECT TO CRIMINAL AND CIVIL PENALTIES.

PROVIDER STATEMENT

I HAVE PERSONALLY COMPLETED OR REVIEWED THIS FORM. THE INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

35. SIGNATURE OF PROVIDER

36. DATE

NEW JERSEY PIP POST-SERVICE APPEAL FORM

TYPE OR PRINT LEGIBLY AND KEEP WITHIN THE LINES OF THE SPACE PROVIDED	1. DATE APPEAL SUBMITTED	2. RECEIPT DATE OF ADVERSE DECISION
-----------------------------------------------------------------------	--------------------------	-------------------------------------

CLAIM INFORMATION

3. INSURANCE COMPANY	4. CLAIM #	5. DATE OF LOSS
----------------------	------------	-----------------

PATIENT INFORMATION

6. LAST NAME	7. FIRST NAME	8. MIDDLE INITIAL	9. DATE OF BIRTH
10. ADDRESS (No. Street)	11. CITY	12. STATE	13. ZIP

PROVIDER/FACILITY INFORMATION

14. LAST NAME	15. FIRST NAME	16. FACILITY-OFFICE NAME								
17. SPECIALTY	18. TAX ID #	19. NPI #								
20. ADDRESS (No. Street)	21. CITY	22. STATE	23. ZIP							
24. TELEPHONE # (Include Area Code)	25. FAX # (Include Area Code)	26. EMAIL ADDRESS								
27. PROVIDER AVAILABILITY DAYS OF WEEK: <table style="width: 100%; text-align: center; border: none;"> <tr> <td style="border: none; width: 20%;">MONDAY</td> <td style="border: none; width: 20%;">TUESDAY</td> <td style="border: none; width: 20%;">WEDNESDAY</td> <td style="border: none; width: 20%;">THURSDAY</td> <td style="border: none; width: 20%;">FRIDAY</td> </tr> </table>		MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	28. PROVIDER AVAILABILITY TIME OF DAY: <table style="width: 100%; text-align: center; border: none;"> <tr> <td style="border: none; width: 50%;">FROM</td> <td style="border: none; width: 50%;">TO</td> </tr> </table>		FROM	TO
MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY						
FROM	TO									

DOCUMENTS INCLUDED

29. CHECK THOSE APPLICABLE BELOW (Include Proof of Receipt if Applicable)

<input type="checkbox"/> *ORIGINAL BILL (HCFA/UB)	<input type="checkbox"/> *EXPLANATION OF BENEFIT/PAYMENT	<input type="checkbox"/> *APPEAL RATIONALE NARRATIVE
<input type="checkbox"/> APTP DECISION/RESPONSE	<input type="checkbox"/> INDEPENDENT MEDICAL EXAM REPORT	<input type="checkbox"/> PEER REVIEW REPORT
<input type="checkbox"/> AUDIT REPORT	<input type="checkbox"/> NETWORK TERMINATION DOCUMENT	<input type="checkbox"/> PPO CONTRACT
<input type="checkbox"/> OTHER SUPPORTING DOCUMENTS (Describe): _____		

POST-SERVICE APPEAL ISSUES

30. EOB ID	31. TOTAL BILL REIMBURSEMENT	32. EXPECTED BILL REIMBURSEMENT	33. **BILL LEVEL APPEAL CODE(S) 1-10
34. DATE(S) OF SERVICE		35. CPT, HCPCS, NDC	36. LINE LEVEL REIMBURSE AMOUNT
FROM	TO		37. LINE LEVEL EXPECTED REIMBURSE AMOUNT
MM DD YY	MM DD YY	MM DD YY	38. **LINE LEVEL APPEAL CODE(S) A-S

* Indicates minimum documents required that must be included with the submission of this form with ADDITIONAL/NEW supporting records only
 ** Indicates sections that should be completed using the letter(s)/number(s) that correspond to the reason codes on the back of this form

FRAUD PREVENTION-NEW JERSEY WARNING

ANY PERSON WHO KNOWINGLY FILES A STATEMENT OF CLAIM CONTAINING ANY FALSE OR MISLEADING INFORMATION IS SUBJECT TO CRIMINAL AND CIVIL PENALTIES.

PROVIDER STATEMENT

I HAVE PERSONALLY COMPLETED OR REVIEWED THIS FORM. THE INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

--	--

NEW JERSEY PIP POST-SERVICE APPEAL

REASON CODES

BILL LEVEL APPEAL CODES		LINE LEVEL APPEAL CODES	
1	Improper Deductible Applied	A	Improper Application of Fee Schedule Amount
2	Improper Co-pay Applied	B	Improper Application of Modifier Reduction
3	Improper Interest Applied	C	Improper Application of Multiple Reduction Calculation
4	Interest Due - Payment Not Made Timely	D	Improper Application of Daily Max Cap Calculation
5	Bill Processed Under Wrong Patient	E	Improper use of National Correct Coding (NCCI)
6	No Response To Bill Submitted Post 60 Days	F	Improper Application of U&C Amount
7	Improper Application of Coordination of Benefits	G	Improper Application of PPO Amount
8	Improper Use of PPO - Not Participating In Network	H	Improper Application of Pre-cert Penalty Co-pay
9	Improper Use of PPO - Terminated From Network	I	Improper Application of Voluntary Network Penalty Co-pay
10	Improper Denial Based on Coverage Investigation	J	Improper Application of Prospective Medical Necessity Denial
		K	Improper Application of Retrospective Medical Necessity Denial
		L	Improper Application of Bill Audit Reduction
		M	Improper Application of Medical Code Review Reduction
		N	Improper Application of Peer Review Reduction
		O	Improper Application of IME Reduction
		P	Improper Application of Missing Supportive Medical Records Denial
		Q	Improper Application of Coordination of Benefits
		R	Data Capture Error Caused Improper Reimbursement
		S	No Response to Services Billed