

Policy Name: Termination of Participating Providers Policy (HHP-08)

Effective Date:

Approved by the Board: [June 26, 2013]

Previous Versions: None

Approval Signature: _____



Name: Douglas Kwock, M.D.

Title: President/Chair

Definitions:

"Adverse Action" means any reduction, restriction, suspension, revocation, or denial of a Provider's status as a participating physician or practitioner with HHP and corresponding termination of the Participation Agreement or joinder agreement, as applicable, in accordance with the Termination of Participating Providers Policy (HHP-08).

"Board" means the HHP Board of Managers.

"Executive Director" means the HHP Executive Director as described in the HHP Executive Director Job Description.

"Hearing Committee" means the ad hoc committee described in this Policy established to conduct hearings in accordance with the procedures set forth herein.

"HHP" means Hawaii Health Partners, LLC.

"HHP Patient(s)" means an individual who is enrolled in a health plan or product sponsored or administered by a commercial or government health care insurer or any self-insured health plans that has contracted with HHP to participate in quality and incentive programs related to the furnishing of medically necessary items and services to such individual.

"Medical Director" means the HHP Medical Director as described in the HHP Medical Director Job Description.

"Potential Adverse Action Trigger" means any instance or circumstance in which: (a) the Medical Director has recommended an Adverse Action consistent with the Performance Improvement Policy (HHP-07) with respect to a particular Provider for failing to comply with the Performance Improvement Policy (HHP-07); (b) the Medical Director has recommended an Adverse Action with respect to a particular Provider for failing to comply with the Code of Conduct (HHP-06); or (c) a Provider has been denied recredentialing by the Recruiting and Credentialing Committee in accordance with the Recredentialing Policy (HHP-09).

"Provider" means a physician or allied health professional who has been credentialed and approved by the Board as a participant with HHP and has not had his or her Participation Agreement or joinder agreement terminated.

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“Standing Committees” means the HHP Recruiting and Credentialing, Quality and Clinical Integration, Finance and Nominating Committees.

“Summary Suspension” means emergency or urgent Adverse Action taken against a Provider before a hearing is held.

Purpose:

The purpose of this Policy is to provide a standard procedure for provider notice of terminations and summary suspensions for failing to meet HHP provider performance standards, including quality standards, behavior and citizen standards and credentialing standards. This Policy describes HHP's provider appeal procedures and the applicable process for provider termination/summary suspension hearings.

HHP shall maintain and adhere to this Policy that governs:

- 1) Hearings on recommended Adverse Actions against a Provider;
- 2) Hearings on Summary Suspension of a Provider; and
- 3) Adverse decisions on any application for re-credentialing.

Policy / Procedure:

- I. *Procedural Rights.* Any Provider who is the subject of a Potential Adverse Action Trigger or who has been Summarily Suspended shall be afforded the procedural safeguards set forth in this Policy. Notwithstanding any other provision of this Policy, no Provider shall be entitled to more than one hearing with respect to a recommended Adverse Action or Summary Suspension taken against that Provider.
- II. *Notice of Request for Hearing and Waiver.* The Medical Director or his/her designee shall give prompt written notice to the affected Provider of any Potential Adverse Action Trigger or Summary Suspension. The notice shall provide the reasons for the action and a summary of hearing procedures.
 - A. *Form of Request.* Any request for a hearing by a Provider must be in writing and delivered (by hand delivery, overnight courier or certified mail, return receipt requested) to the person designated in the notice, within thirty (30) days of the date of the notice.
 - B. *Waiver.* A Provider shall not receive a hearing if the Provider fails to request a hearing in accordance with this section.
 - C. *Effect of Waiver.* When a hearing is waived, the affected Provider shall be deemed to have accepted the recommended Adverse Action (or Adverse Action imposed in conjunction with a Summary Suspension), and such Adverse Action shall thereupon become effective upon final approval by the Board.
- III. *Notice of Hearing.* Within five (5) days after receipt of a proper request for a hearing as described above, the Medical Director or his/her designee shall schedule and arrange for a hearing and shall notify the Provider in writing of the time, place, and date so scheduled.
 - A. *Date of Hearing.* The hearing date shall not be less than thirty (30) days from the date of notice of the hearing, unless such timing is specifically waived in writing by the affected

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Provider and alternative dates are mutually agreed upon in writing by the affected Provider and the Medical Director or his/her designee.

- B. *Contents of Notice.* The notice of hearing also shall provide a list of the witnesses, if any, expected to testify in support of any recommended Adverse Action or Summary Suspension.
- IV. *Notice of Witnesses of Provider.* The Provider or his/her representative shall provide to the chair of the Hearing Committee, in writing, a list of those persons, if any, he/she expects to call as witnesses at the hearing at least five (5) days prior to the date of the hearing.
- V. **Hearing Committee**
- A. *Committee.* The hearing shall be conducted by a Hearing Committee, which shall be composed of at least five (5) members of which four (4) shall be physicians from any of the Standing Committees. The remainder of any additional members of the Hearing Committee shall be appointed by the Medical Director who shall then designate one of the members so appointed to be the chair of the Hearing Committee.
 - B. *Qualifications.* No member of the Hearing Committee shall be in direct economic competition with the Provider involved. A Hearing Committee member is not disqualified from serving on a Hearing Committee because he/she has heard of the case or has knowledge of the facts involved. The members of the Hearing Committee shall give fair and impartial consideration to the case.
- VI. *Conduct of Hearing.* The hearing shall be conducted in accordance with the rules set forth herein. If in the course of the hearing, a matter arises which this Policy does not address, the chair of the Hearing Committee is authorized to determine the applicable procedure(s).
- A. *Committee Presence.* At least five (5) members of the Hearing Committee shall be present when the hearing takes place.
 - B. *Provider Presence.* The personal appearance of the Provider for whom the hearing has been scheduled shall be required. A Provider who fails, without good cause, to appear at such hearing shall lose his/ her opportunity for a hearing and such non-appearance shall be deemed to constitute a voluntary acceptance of the recommended Adverse Action. Such recommended Adverse Action shall thereupon become effective upon final approval by the Board.
 - C. *Responsibilities of Parties.* During a hearing, each party may:
 - 1. Call, examine, and cross-examine witnesses on any matter determined by the chair of the Hearing Committee to be relevant to the issues;
 - 2. Introduce exhibits or otherwise present evidence determined by the chair of the Hearing Committee to be relevant to the issues;
 - 3. Submit written reports, including but not limited to expert reports or any findings of the committee(s) that investigated the Provider in question;
 - 4. Submit a written statement to the Hearing Committee at the close of the hearing;
 - 5. If the Provider does not testify on his /her own behalf, he/she may be called and examined as if under cross-examination by HHP's representative or any member of the Hearing Committee.

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- D. *Witness Fees.* Each party shall bear his/her own fees, costs, and expenses with respect to witnesses testifying or other evidence submitted on his/her behalf.
 - E. *Procedure and Evidence.* The hearing need not be conducted according to the rules of law relating to the examination of witnesses or presentation of evidence. Any relevant matter upon which a reasonable and responsible person might customarily rely in the conduct of serious affairs may be considered regardless of the admissibility of such evidence in a court of law. The chair of the Hearing Committee shall make all determinations regarding admissibility of evidence. The chair of the Hearing Committee shall be required to order that oral evidence be taken on oath or affirmation. Any written statement submitted by a party at the close of a hearing shall become part of the hearing record.
 - F. *Burden of Proof.* The Medical Director shall have the initial duty to present evidence for each case or issue in support of the recommended Adverse Action or Summary Suspension. The Provider shall be obligated to present evidence in response. After the Medical Director has presented evidence in support of the recommended Adverse Action or Summary Suspension, the Provider has the burden of proving by a preponderance of the evidence (i.e., more likely than not) that the recommended Adverse Action or Summary Suspension lacks any reasonable basis or that the conclusions drawn from the recommended Adverse Action or Summary Suspension are arbitrary and capricious.
 - G. *Hearing Officer.* The chair of the Hearing Committee shall preside over the hearing to determine the order of procedure during the hearing, to ensure that all participants in the hearing have a reasonable opportunity to present relevant oral and documentary evidence, and to maintain decorum.
 - H. *Representation*
 - 1. Each party, at their own cost and expense, shall be entitled to be accompanied by and represented at the hearing by a representative of his/her choice.
 - 2. Each party to a hearing, including the Provider, may be represented at the hearing by an attorney at law, at their own cost and expense. HHP also may have its attorney present during the hearing and one or all members of the Hearing Committee may, if they deem it necessary, consult with this attorney during the hearing.
 - I. *Deliberations, Recesses and Adjournment.* The Hearing Committee may, without prior notice, recess the hearing and reconvene same for the convenience of the participants or for the purpose of obtaining new or additional evidence or consultation. Upon conclusions of the presentation of oral and written evidence and submission of any written statements, the hearing shall be closed. The Hearing Committee shall thereupon, at a time convenient to itself, conduct its deliberations outside the presence of the Provider for whom the hearing was convened and any representatives of the Provider. The Hearing Committee's deliberations may be in person or by any means by which all Committee members can hear each other at the same time.
- VII. *Written Report.* Within ten (10) days after final adjournment of the hearing, the Hearing Committee shall make a written report and recommendations to the Board, which could include a date at which time the Provider could reapply for participation with HHP if applicable (the "**Report**"). The Report shall state the decision of the Hearing Committee with respect to the recommended Adverse Action or Summary Suspension, including whether to uphold, modify or reverse the recommended Adverse Action or Summary Suspension, and a brief summary of reasons therefore. A copy of the Report shall be promptly sent to the Provider by hand delivery, overnight courier or certified mail, return receipt requested.

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- A. *Board Action on Hearing Committee Report.* The Board shall be the final decision-maker with respect to all recommended Adverse Actions and Summary Suspensions, and all such action shall be final, binding and non-reviewable. The Board shall take action with respect to all Hearing Committee decisions within ten (10) days following receipt of the Report, except that the Board may defer final determination by referring the matter back to the Hearing Committee for further reconsideration. Any such referral back shall state the reasons therefore and shall set a reasonable time limit within which a subsequent recommendation to the Board shall be made. After receipt of such subsequent recommendation, the Board shall make a final decision.
- B. *Notice of Board Action.* Notice of the Board's decision shall be provided to the Medical Director and the Chair(s) of the applicable Committee(s). In addition, the Provider shall receive notice of Board action via hand delivery, overnight courier or certified mail, return receipt requested.
- C. *Reporting.* HHP shall make any reports as required by applicable law/regulation.

Related Documents:

Code of Conduct (HHP-06)
Recredentialing Policy (HHP-09)
Performance Improvement Policy (HHP-07)

Distribution: