

panel who is a licensed dentist, who shall consult with a dentist who is board certified or eligible in the same specialty as the service under review.

(4) in the event a patient or health care provider, including a physician, intermediate care facility described in § 8-403(e) of the Health - General Article, or hospital seeks reconsideration or appeal of an adverse decision by a private review agent, the final determination of the appeal of the adverse decision shall:

(i) be stated in writing and provide an explanation of the reason for the adverse decision; and

(ii) reference the specific criteria and standards, including interpretive guidelines, upon which the adverse decision is based.

(b) A private review agent may not charge a fee to a patient or health care provider for an appeal of an adverse decision.

(c) (1) Except as provided in paragraph (2) of this subsection, if a course of treatment has been preauthorized or approved for a patient, a private review agent may not retrospectively render an adverse decision regarding the preauthorized or approved services delivered to that patient.

(2) A private review agent may retrospectively render an adverse decision regarding preauthorized or approved services delivered to a patient if:

(i) the information submitted to the private review agent regarding the services to be delivered to the patient was fraudulent or intentionally misrepresentative or critical information requested by the private review agent regarding services to be delivered to the patient was omitted such that the private review agent's determination would have been different had it known the critical information; or

(ii) the planned course of treatment for the patient that was approved by the private review agent was not substantially followed by the provider.]

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(A) (1) EXCEPT AS PROVIDED FOR IN PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, ALL ADVERSE DECISIONS SHALL BE MADE BY A PHYSICIAN, OR A PANEL OF OTHER APPROPRIATE HEALTH CARE SERVICE REVIEWERS WITH AT LEAST ONE PHYSICIAN ON THE PANEL WHO IS BOARD CERTIFIED OR ELIGIBLE IN THE SAME SPECIALTY AS THE TREATMENT UNDER REVIEW.

(2) WHEN THE HEALTH CARE SERVICE UNDER REVIEW IS A MENTAL HEALTH OR SUBSTANCE ABUSE SERVICE, THE ADVERSE DECISION SHALL BE MADE BY A PHYSICIAN, OR A PANEL OF OTHER APPROPRIATE HEALTH CARE SERVICE REVIEWERS WITH AT LEAST ONE PHYSICIAN, SELECTED BY THE PRIVATE REVIEW AGENT WHO:

(I) IS BOARD CERTIFIED OR ELIGIBLE IN THE SAME SPECIALTY AS THE TREATMENT UNDER REVIEW; OR