

19-1305.2.

(a) Except as specifically provided in § 19-1305.1 of this subtitle:

(1) All adverse decisions shall be made by a physician or a panel of other appropriate health care providers with at least 1 physician on the panel.

(2) In the event a patient or health care provider, including a physician, intermediate care facility described in § 8-403(e) of this 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 be made based on the professional judgment of a physician or a panel of other appropriate health care providers with at least 1 physician on the panel.

(3) In the event a patient or health care provider, including a physician, intermediate care facility described in § 8-403(e) of this 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 PATIENT, ON THE DATE THE SERVICES WERE RENDERED, WAS NOT INSURED BY OR AN ENROLLEE, SUBSCRIBER, OR MEMBER OF THE ENTITY THAT THE PRIVATE REVIEW AGENT IS AFFILIATED WITH, UNDER CONTRACT WITH, OR ACTING ON BEHALF OF;

(II) 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