

Article 2.

Enrollee Grievances and Appeals.

§ 108D-11. Managed care entity grievance and appeal procedures, generally.

(a) Each managed care entity shall establish and maintain internal grievance and appeal procedures that (i) comply with the Social Security Act and 42 C.F.R. Part 438, Subpart F, and (ii) afford enrollees and their authorized representatives constitutional rights to due process and a fair hearing.

(b) An enrollee, or the enrollee's authorized representative, may file grievances and managed care entity level appeals orally or in writing.

(c) A managed care entity shall not attempt to influence, limit, or interfere with an enrollee's right or decision to file a grievance, request for a managed care entity level appeal, or a contested case hearing. However, nothing in this Chapter shall be construed to prevent a managed care entity from doing any of the following:

- (1) Offering an enrollee alternative services.
- (2) Engaging in clinical or educational discussions with enrollees or providers.
- (3) Engaging in informal attempts to resolve enrollee concerns prior to the issuance of a notice of grievance disposition or notice of resolution.

(d) A managed care entity shall not take punitive action against a provider for any of the following:

- (1) Filing a grievance on behalf of an enrollee or supporting an enrollee's grievance.
- (2) Requesting a managed care entity level appeal on behalf of an enrollee or supporting an enrollee's request for a managed care entity level appeal.
- (3) Requesting an expedited managed care entity level appeal on behalf of an enrollee or supporting an enrollee's request for a managed care entity level expedited appeal.
- (4) Requesting a contested case hearing on behalf of an enrollee or supporting an enrollee's request for a contested case hearing.

(e) The appeal procedures set forth in this Article shall not apply to instances in which the sole basis for the managed care entity's decision is a provision in the State Plan or in federal or State law requiring an automatic change adversely affecting some or all beneficiaries. (2013-397, s. 1; 2019-81, s. 1(a); 2021-62, s. 2.1(f).)