

9549.0080 APPEAL PROCEDURES.

Subpart 1. **Scope of appeals.** A decision by the commissioner may be appealed by the nursing facility or a county welfare or human services board where all of the following conditions are met:

A. The appeal, if successful, would result in a change in the nursing facility's total payment rate.

B. The appeal arises from application of the provisions of parts 9549.0010 to 9549.0080, or 12 MCAR SS 2.05001-2.05016 [Temporary], or parts 9510.0010 to 9510.0480.

C. The dispute over the decision is not resolved informally between the commissioner and the appealing party within 30 days of filing the written notice of intent to appeal under subpart 2, item A.

Subp. 2. **Filing of appeal.** To be effective, an appeal must meet the following criteria:

A. The nursing facility must notify the commissioner of its intent to appeal in writing within 30 days of receiving the payment rate determination or decision which is being appealed. The written appeal must be filed within 60 days of receiving the payment rate determination or decision being disputed.

B. The appeal must specify:

- (1) each disputed item and the reason for the dispute;
- (2) the computation and the amount that the appealing party believes to be correct;
- (3) an estimate of the dollar amount involved in each disputed item;
- (4) the authority in statute or rule upon which the appealing party is relying in each dispute; and
- (5) the name and address of the person or firm with whom contacts may be made regarding the appeal.

Subp. 3. **Resolution of appeal.** The appeal must be heard according to the contested case provisions in Minnesota Statutes, chapter 14, and the rules of the Office of Administrative Hearings. Upon agreement of both parties, the dispute may be resolved informally through settlement or through modified appeal procedures established by agreement between the commissioner and the chief administrative law judge.

Subp. 4. **Payment rate during appeal period.** Notwithstanding any appeal filed under parts 9549.0010 to 9549.0080, the total payment rate established by the commissioner shall be the rate paid to the nursing facility while the appeal is pending. A nursing facility appealing under this part is subject to the limitation in part 9549.0070, subpart 2 pending

resolution of the appeal. The nursing facility must give private paying residents notice, as required by Minnesota Statutes, section 256B.47, subdivision 2, of the total payment rate established by the commissioner that will be charged pending appeal. The nursing facility may give private paying residents notice, as required by Minnesota Statutes, section 256B.47, subdivision 2, of the total payment rate that will be charged if the nursing facility prevails in the appeal. If notice is given and the nursing facility prevails in the appeal, the nursing facility may adjust the private payment rate retroactive to the first day of the period covered by the appeal or to the 31st day after giving the notice, whichever is later.

Subp. 5. **Payments after resolution of appeal.** Upon resolution of the appeal, any overpayments or underpayments must be made according to part 9549.0070.

Statutory Authority: *MS s 256B.41 to 256B.502*

History: *9 SR 2659; L 1992 c 513 art 7 s 136*

Published Electronically: *October 15, 2013*