



**MASSACHUSETTS
MEDICAL SOCIETY**
RECOGNIZED ACCREDITOR PROGRAM

Procedures for Reconsideration and Appeal of Adverse Accreditation Decisions

These Procedures are effective with respect to all requests for Reconsideration and Appeal which are received by MMS on or after June 28, 2023. MMS reserves the right to amend this Policy at any time.

“Adverse Action” shall mean a reduction of a provider’s accreditation to Probation or Nonaccreditation. A Massachusetts Medical Society (“MMS”) decision to take an Adverse Action against a provider shall be sent to the provider as a Notice of Adverse Action (“Notice of Adverse Action”). A notice sent by MMS pursuant to the MMS Policy Regarding Inquiries and Allegations of Noncompliance which contains the elements required by the following sentence shall constitute a Notice of Adverse Action. The MMS Notice will describe the basis for the Adverse Action and advise the provider of the provider’s opportunity to file a request for reconsideration (a “Reconsideration”) with the MMS; provided, however that a provider shall have no right to a Reconsideration or Appeal if MMS takes an Adverse Action pursuant to the first paragraph of Section E of the MMS Policy Regarding Inquiries and Allegations of Noncompliance, and a provider shall only have a right to an Appeal, and not a right to Reconsideration, in the event of an Immediate Suspension implemented by MMS pursuant to Section F of the MMS Policy Regarding Inquiries and Allegations of Noncompliance (an “Immediate Suspension”).

I. Reconsideration of an Adverse Action

- A. The decision by the MMS Committee on Accreditation Review to deny or withdraw accreditation or to place or to continue an accredited provider on probation, hereinafter referred to as an “Adverse Action decision,” may be transmitted to the institution in a notification or decision letter which shall include the basis for the decision and advise the provider of the provider’s opportunity to file a request for reconsideration with the MMS.

- B. A written request for Reconsideration (if any) shall be submitted in writing to the Chair of the MMS Committee on Accreditation Review by the provider (or the provider’s representative) within thirty (30) calendar days of receipt of the notification or decision letter of the Adverse Action decision. Otherwise, the decision by MMS becomes final.

- C. The provider’s request for Reconsideration must include payment of the Reconsideration fee, all documents, data, and information in support of its request for Reconsideration, and all materials must be submitted in writing. Except for instances of an immediate suspension of a provider’s accreditation pursuant to Section F of the MMS Policy Regarding Inquiries and Allegations of Noncompliance, which does not permit the provider to seek Reaccreditation, the accreditation status of the provider, during the process of reconsideration, shall remain as it was prior to the Adverse Action decision.

- D. Reconsideration will be based upon the provider's entire continuing medical education program as it existed at the time of the Notice of Adverse Action.
- E. The MMS Committee on Accreditation Review will review the provider's Reconsideration submission (as well as any other relevant data and information), will render a written Reconsideration decision, sustaining, amending, or reversing the Adverse Accreditation decision, and will send the provider notice of the Adverse Action Reconsideration decision.

II. Appeal of an Adverse Reconsideration Decision

- A. If, following the Reconsideration, the MMS Committee on Accreditation Review sustains all or part of the Adverse Action, the provider ("Appellant") may submit a written appeal to be considered by the MMS Committee on Medical Education (an "Appeal") within thirty (30) calendar days following the date of receipt of the notice of Adverse Action Reconsideration decision. If the Adverse Action decision is one of Immediate Suspension, such Appeal must be submitted within fifteen (15) calendar days of the provider's receipt of the notice of Adverse Action Reconsideration decision. The Appeal shall include a statement of reasons for appealing the decision of the MMS Committee on Accreditation Review. Appeals may be based only on the grounds that the MMS's decision was:

- arbitrary, capricious, or otherwise not in accordance with the accreditation standards and procedures of the Massachusetts Medical Society; or,
- not supported by substantial evidence.

If the provider fails to submit a written Appeal to the Chair of the MMS Committee on Medical Education within thirty (30) calendar days following the provider's receipt of the notice of Adverse Action Reconsideration decision, or within fifteen (15) calendar days of a notice of Immediate Suspension, the Adverse Action decision of the MMS Committee on Accreditation Review will be final.

- B. The accreditation status of the Appellant, during the process of the appeal review, shall remain as it was prior to the Adverse Action decision; provided, however that the accreditation status of a provider who is subject to an Immediate Suspension shall be nonaccreditation during the process of the Appeal.
- C. The MMS Committee on Medical Education shall complete its review of the Appeal materials no later than 45 calendar days after it receives them. No member of the Committee on Accreditation Review (CAR) who was involved in the CAR's Reconsideration of the Adverse Action decision may participate as a member of the Committee on Medical Education when it reviews the CAR's decision. Following the MMS Committee on Medical Education meeting at which the review occurs, the provider will be promptly notified of the MMS Committee on Medical Education's decision, and the provider's right to appeal any Adverse Action decision of the Committee on Medical Education (a "Further Appeal").

III. Further Appeal Hearing

- A. If, following the appeal review, the MMS Committee on Medical Education sustains all or part of the Adverse Action decision of the MMS Committee on Accreditation Review, the provider may request a hearing (a "Further Appeal") in writing to the Chair of the MMS Committee on Medical Education

within thirty (30) calendar days following the date of receipt of the letter of notification of the final Adverse Action Reconsideration decision of the MMS Committee on Medical Education. That appeal and hearing will address only the adverse portions of the accreditation decision and will not re-examine any favorable findings. If the provider does not request a hearing within thirty days, the decision of the MMS Committee on Medical Education will be final.

- B. The accreditation status of the Appellant during the process of Further Appeal shall remain as it was prior to the Adverse Action decision.
- C. The Further Appeal Board shall be composed of three members and a Hearing Officer.

The three members will be appointed by the Chair of the MMS Committee on Medical Education according to the following procedures:

A list of seven (7) individuals, qualified and willing to serve as members of the Further Appeal Board, shall be prepared under the direction of the Chair of the MMS Committee on Medical Education. No member of the Committee on Accreditation Review or the Committee on Medical Education who participated in the reconsideration or appeal review may be a member of the Further Appeal Board. Within twenty (20) calendar days of receipt of notification of the Further Appeal, the list shall be sent by written communication that confirms receipt (ex. Email, USPS certified mail, overnight courier) to the Appellant. The Appellant may eliminate up to two (2) names from the list to make up the Further Appeal Board and shall notify the Chair of the MMS Committee on Medical Education of its selection within ten (10) calendar days of its receipt of the list. The Chair of the MMS Committee on Medical Education shall then select the three (3) individuals from the names remaining on the list that shall constitute the Further Appeal Board and shall notify the Appellant of the names of the persons selected.

The MMS will appoint a non-voting Hearing Officer of the Further Appeal Board, who need not be an individual from the list described above.

- D. Hearings requested in conformity with these procedures shall take place no later than ninety (90) calendar days following the appointment of a Further Appeal Board. The hearing shall take place at a location determined by the Chair of the MMS Committee on Medical Education.
- E. At least forty-five (45) calendar days prior to the hearing, the Appellant shall be notified of the time and place of the hearing as determined by the Chair of the MMS Committee on Medical Education. The Appellant has the right to request and obtain copies of the Appellant's MMS file as it existed at the time of the Notice of Adverse Action; provided, however, that the identity of any independent reviewer shall be redacted from all reports. The record on appeal considered by the Further Appeal Board will be limited to documents and data which were considered as part of the Adverse Action, the content of the provider's files as of the Adverse Action, and materials submitted by the provider as part of the Reconsideration process, not including any materials relating to changes the provider might have implemented in the time since the Notice of Adverse Action.
- F. Written statements may be submitted to the Further Appeal Board prior to the hearing on a schedule determined by the Further Appeal Board and at the hearing.
- G. At any hearing before the Further Appeal Board, the representatives of the Appellant may be accompanied by counsel, make oral presentations, offer testimony, and present such information

which is relevant to the record on appeal. The Appellant may request, in writing, at least thirty (30) calendar days prior to any hearing, that a representative of the MMS Committee on Medical Education or the MMS Committee on Accreditation Review appear as a witness to be examined with respect to the subject of the appeal.

- H. The MMS Committee on Medical Education may appoint one or more representatives to attend the hearing and may question the Appellant's representatives.
- I. The hearing need not be conducted according to the rules of law relating to the examination of witnesses or the presentation of evidence. The Hearing Officer of the Further Appeal Board shall make all determinations on procedural matters and all determinations on whether the Further Appeal Board will consider particular information sought to be presented.
- J. Within thirty (30) calendar days of the hearing, the Further Appeal Board shall submit a recommendation on the accreditation status of the Appellant for consideration by the MMS Committee on Medical Education at its first meeting following receipt of recommendation of the Further Appeal Board. The resulting decision by the MMS Committee on Medical Education as to the accreditation status of the provider shall be final and the decision shall be effective immediately upon delivery of notice to the Appellant.
- K. Expenses of the Further Appeal Board shall be equally shared by the Appellant and MMS Committee on Medical Education, and the Appellant must submit payment for half the estimated Further Appeal costs at least thirty (30) calendar days prior to the hearing. If payment is not received by the due date: (1) the Appellant will have failed to comply with these Procedures; (2) no further action will be taken on the Appeal because of failure to comply with the Procedures; and (3) the Adverse Action decision will not be modified. The expenses of witnesses requested by the Appellant, including any representatives of the MMS who appear at the request of the Appellant, shall be the responsibility of the Appellant. The expenses of the representatives of the MMS, who appear at the request of the MMS Committee on Medical Education, shall be borne by the MMS. The Appellant shall not have a right to appear in person at the MMS Committee on Medical Education meeting in which the Further Appeal Board's decision is discussed.

IV. Manner of Communication

- A. Written communication to the MMS related to these Procedures must be sent in a manner that confirms receipt (e.g., email, USPS certified mail Return Receipt Requested, FEDEX-type courier), and addressed to: Chair, Committee on Accreditation Review, c/o Nancy Marotta, Massachusetts Medical Society, 860 Winter Street, Waltham, MA 02451-1411.