BCBSNM
New Mexico Provider Grievance Plan

DEPARTMENT: Customer Service	**PROCEDURE NUMBER:** PROVGRIEV-NM-207	**ORIGINAL EFFECTIVE DATE** May 23,2023
PROCEDURE TITLE: Provider Grievance Plan		**EFFECTIVE DATE:** May 23, 2023
		LAST REVISION DATE: February 8, 2024
EXECUTIVE OWNER: DVP, Customer Service	**BUSINESS OWNER:** Director, Customer Service Regulatory Inquiry	**LAST REVIEW DATE:** February 8, 2024

I. SCOPE

This Procedure applies to Customer Service, New Mexico Network and other departments that needed to compliantly resolve provider grievances in New Mexico.

This Procedure applies to New Mexico fully insured and Inter Agency Benefits Counsel (IBAC) business and products:

Line of Business

Commercial	Exchange	Government
☒ HMO	☒ HMO	☐ HMO
☒ PPO	☒ PPO	☐ PPO

Approving Body

☐ BCBSNM Policy and Procedure Committee Date:

II. PURPOSE and ELIGIBLE GRIEVANCE CONCERNS

A. The purpose of this Procedure is to set forth BCBSNM's plan in compliance with Section 13.10.16.13 (NMAC 2022) that ensures appropriate handling of New Mexico participating and non-participating Provider Grievances.

B. There are 12 eligible grievance concerns as set forth in the table below. Provider Grievances about a for-cause (including immediate) Termination (#10 below) shall be referred to as a Termination Grievance. Provider Grievances about all other eligible grievance concerns (#s 1-9, 11 and 12 below) shall be referred to as a Non-Termination Grievance.

ELIGIBLE GRIEVANCE CONCERNS	PAR PROVIDER	NON-PAR PROVIDER
1. Credentialing deadlines	X	X
2. Claim payment amount of timing	X	X

3. Claims submission requirements or compliance	X	
4. Network adequacy, including network participation determinations based on network composition	X	X
5. Network composition, including provider qualifications	X	X
6. Utilization management practices	X	X
7. Provider contract construction or compliance	X	
8. Patient care standards or access to care	X	
9. Surprise billing reimbursement amount, rate, or timing	X	X
10. Termination	X	
11. Operation of the plan including compliance with any law enforceable by the OSI or any directive of the OSI	X	
12. Discrimination	X	X

C. The Inquiry Specialist shall determine whether there is an eligible grievance concern. If there is no eligible grievance concern, the Inquiry Specialist shall prepare and issue a Response with the required elements according to the procedures below. No panel is convened if there is no eligible grievance concern. The Inquiry Specialist will also refer the provider's concern (that is not grievable under this process) to the appropriate department(s) for further consideration and potential outreach to the provider.

III. PROCEDURES USED TO RECEIVE, REVIEW AND RESPOND TO A PROVIDER GRIEVANCE (Section 13.10.16.13(B)(1))

A. Procedures Common to Non-Termination Grievances and Termination Grievances

1. Point of Contact. Providers will submit grievances in writing to the email address NM_Provider_Grievance@bcbsnm.com or by US mail to Provider Grievances BCBSNM 7777 E 42nd Place Tulsa, Oklahoma 74145.
2. Timeline to file. To be timely, Provider Grievances must be submitted to BCBSNM within 90 calendar days from the incident that is the subject of the grievance.
   (i) The Inquiry Specialist will determine whether the grievance is timely.
   (ii) If the grievance is untimely, the Inquiry Specialist shall prepare and issue a Response with the required elements according to the procedures below. No panel is convened for untimely grievances.
3. Load in EAA. Inquiry Specialists in the Regulatory Inquiry Group (RIG) will load the grievance as an operational inquiry in the Enterprise Appeal Application (EAA) for tracking, trending and reporting purposes.
4. Initial Review. Following receipt of a grievance, the designated Inquiry Specialist will review all information received and document the substance of the grievance.
5. Acknowledgement. Within five (5) business days of the corporate receipt date (*i.e.,* the date received by the designated email or physical address without regard to when the Inquiry Specialist loads or processes the grievance in EAA), an acknowledgment letter will be sent to the provider advising of the following:
   (i) The corporate receipt date of the provider's request;
   (ii) That the request has been received and is being reviewed;
   (iii) That BCBSNM's acknowledgement of the request does not constitute a determination that the request is timely or is an eligible grievance concern. If BCBSNM later determines the request to be untimely or not an eligible grievance

concern, BCBSNM will notify the provider of such in BCBSNM's Response (Decision).

6. Supplemental Information. The Inquiry Specialist will determine if supplemental information pertinent to the resolution of the grievance is needed from the provider. Within 10 calendar days of receipt of the grievance, the Inquiry Specialist will request any needed supplemental information from the provider.
   (i) As soon as reasonably possible and taking into account of the 10-day deadline to request supplemental information from the provider, the Inquiry Specialist will reach out to the appropriate contact person(s)/area(s) responsible for the issue of the grievance with an expectation that within two (2) business days the contact person will advise of the specific supplemental information needed from the provider, if any.
   (ii) If supplemental information is needed the Inquiry Specialist will by documented communication make the request of the provider allowing 10 calendar days to return the requested information.
7. Review Panel. The Inquiry Specialist will organize and form a review panel for the Provider Grievance.
   (i) The panel is responsible for reviewing, deliberating and deciding the grievance by majority vote.
   (ii) The panel should be convened no later than 30 days after receipt of the grievance.
      (1) The 30-day deadline is not regulatory and can be extended by BCBSNM. It is intended to allow at least 15 days for the Response (Decision) to drafted so that it can be delivered timely to the provider (See Timing of Response (Decision), below).
   (iii) The panel shall be comprised of multiple members, at least one of whom is in a position of authority over the carrier operations that are the subject of the grievance. For more information about the criteria and process used to select the panelists, see Section IV below (Criteria and Process to Select Panelists).
8. Hearing Acknowledgement Form. There are two forms, a *Provider Grievance (Non-Termination) Panel Review Attendance* form or a *Provider Termination Fair Hearing Attendance* form. The Inquiry Specialist will identify and populate the applicable form, inclusive of the planned date and time for the presentation of evidence (Non-Termination Grievance) or hearing (Termination Grievance) and offer the provider the option to choose an alternative date/time;
      (1) Both forms will advise the provider that the failure to return the completed form to BCBSNM at least three (3) business days prior to the scheduled panel review or hearing date may result in the proceedings continuing as noticed or being rescheduled by BCBSNM. Subject to compliance with regulatory, contractual and accreditation deadlines, BCBSNM will make good faith efforts to accommodate one request to reschedule and absent extraordinary circumstances, BCBNM will reschedule no more than once.
      (2) The applicable form shall be delivered to the provider according to the provider's preferred method of communication as described elsewhere in this plan.
9. Response (Decision). BCBSNM's Responses to ineligible and eligible Provider Grievances will include:
   (i) The name(s), title(s), and qualification(s) of each person who participated in the grievance decision;

(ii) A statement of issue(s) and the final decision(s);
(iii) A clear and complete explanation of the rationale for the decision and a summary of the evidence relied upon to support the decision;
(iv) A summary of any proposed remedial action;
(v) Information on the provider's appeal rights, including statements that:
(1) Only certain types of Provider Grievances may be appealed to the New Mexico Office of the Superintendent of Insurance (OSI), specifically:
a. An alleged violation of the law enforceable by the OSI;
b. Alleged noncompliance with an order of the OSI; or
c. A Termination based on providers' alleged failure to comply with a law or order enforceable by the OSI;
(2) The provider should independently determine whether the Provider Grievance that has been decided by BCBSNM is appealable to the OSI and whether and by when to pursue such an appeal;
(3) Appeals to the OSI shall be filed no later than 30 days after the provider receives BCBSNM's response to the grievance, or the deadline for BCBSNM's response, whichever is earlier; and
(4) Additional information about, and requirements for, appealing to the OSI are set forth in Section 13.10.16.10 NMAC (2023). There may also be more information and/or forms on the OSI's website: osi.state.nm.us. The information provided in this response is not a substitute for the provider's review of and compliance with Section 13.10.16.10.
(vi) A closing statement that: "No person shall be subject to retaliatory action by BCBSNM for submitting or supporting a Provider Grievance to BCBSNM or for appealing BCBSNM's decision to the OSI."

10. Timing of Response (Decision). Within 45 days of the later of corporate receipt date of the request, receipt of requested supplemental information, or the due date for submission of any requested supplemental information not received, BCBSNM will respond to ineligible and eligible Provider Grievances using the provider's preferred communication method (if none specified, using the same method by which the grievance was submitted).
(i) Once the Response has been sent to the provider, the Inquiry Specialist will update the EAA with the appropriate documentation and descriptions for tracking/trending/reporting purposes.
(ii) Note: see the possible exception for Termination Grievances under the Procedures Unique to Termination Grievances, below.
11. Extension of Deadlines and Bundled Grievances. By documented communication, BCBSNM and the provider may agree to extend any deadlines in this grievance plan. Provider(s) may submit multiple related grievances at the same time, provided the grievances are not "unduly duplicative or repetitive." Additionally, a group of providers may submit a single grievance on behalf of multiple providers.
(i) Note: If Non-Termination and Termination Grievances are submitted at the same time by the same provider, the Inquiry Specialist should decide whether they can be heard by a single panel or different panels but in either situation, they should be separately heard by the panel(s) according to the applicable procedures below.

B. Procedures Unique to Non-Termination Grievances

1. Presentation of Evidence. The provider may present oral or documentary evidence to the review panel. To present such evidence, the provider must notify BCBSNM in advance of the panel proceedings by furnishing the *Provider Grievance (Non-Termination) Panel Review Attendance* form to BCBSNM.
   (i) The provider's presentation of evidence may be by conference call, virtual, or, subject to any health orders, in person as indicated on the *Provider Grievance (Non-Termination) Panel Review Attendance* form.
   (ii) The provider must furnish copies of documentary evidence that can be retained by BCBSNM; originals will not be accepted.
   (iii) Unless otherwise permitted by the panel chair in his or her sole discretion, a maximum of 30 minutes shall be allowed for provider's presentation of evidence.
   (iv) Excessive, impertinent or redundant evidence may be disallowed by the panel chair and in the unlikely event that the provider behaves unprofessionally, the panel chair is empowered to end the provider's presentation of evidence.
   (v) A provider's presentation of evidence, may not be recorded or transcribed by the provider, and does not include the right to question or make demands of panelists, although panelists are permitted but not required to ask questions and make requests of the provider. The provider is under no obligation to answer panelist questions or comply with panelist requests.
   (vi) Upon the end of the provider presentation of evidence, the provider will be excused.

C. Procedures Unique to Termination Grievances

1. Eligible Termination Grievances. For cause (including immediate) Terminations are eligible as Provider Grievances. No cause Terminations are not eligible.
2. Fair Hearing Process. BCBSNM's fair hearing process for Termination Grievances provides for the following rights and protections:
   (i) The right of the provider to appear in person before the deciding panel
   (ii) The right of the provider to present testimonial or documentary evidence at the hearing
   (iii) The right to call witnesses and cross-examine any witness
   (iv) The right of the provider to be represented by an attorney or by any other person of the provider's choice; and
   (v) The right to an expedited hearing within 14 days of the termination in those instances where BCBSNM has not provided advance written notice of termination to the provider and the termination could result in imminent and significant harm to members.
   (vi) The right to a written decision within 20 days after the hearing, contemporaneously delivered via the provider's preferred method of communication: and
   (vii) The individual right of each provider in a terminated group to have a hearing if a group of providers is terminated for cause. If any one provider submits a

grievance for the termination, BCBSNM shall provide each similarly situated provider in the group with a hearing notice, and each such provider will be bound by BCBSNM's determination, subject to any appeal rights.

3. Timing of Response (Decision). BCBSNM will respond in writing to Termination Grievances within 20 days after the hearing, contemporaneously delivered via the provider's preferred method of communication.

IV. CRITERIA AND PROCESS TO SELECT PANELISTS (Section 13.10.16.13(B)(2))

1. Panelist Criteria.
   (i) Panelists should be current employees of Health Care Service Corporation. In limited circumstances, such as the unavailability of an HCSC medical director who is a New Mexico licensed medical professional practicing in the general area of concern, nonemployees may be panelists with VP approval.
   (ii) If the grievance raises a quality-of-care concern, the panel shall include a New Mexico licensed medical professional who practices in the general area of concern. A New Mexico-licensed physician shall be included on a review panel considering complex quality-of-care concerns.
   (iii) No person with a conflict of interest shall participate on the review panel for a grievance. Employment by BCBSNM standing alone is not a conflict of interest.
   (iv) Subject matter expert(s) should be considered for all panels and at least one director (or DVP or VP) should be considered for more complex grievances. Panels for Termination Grievances should include the BCBSNM VP for Network or the VP's designee.
2. Panelist Selection Process. The Inquiry Specialist will ensure that at least one panelist is in a position of authority over the operations of the subject of the grievance. This panelist will be the panel chair. The Inquiry Specialist will confer with this panelist as to the number and identification of additional panelists using the Panelist Criteria above and timely coordinate and confirm participation with all such panelists.

V. INFORMING BCBSNM'S GOVERNING BODY (13.10.16.13(B)(3))

BCBSNM's senior leadership, including its Plan President, must be informed of Provider Grievances and BCBSNM's Responses to them. The Inquiry Specialist will relay the requisite information to BCBSNM's Vice President for Network who will in turn present the information to senior leadership.

VI. RESPONSIBILITY FOR IMPLEMENTATION AND OVERSIGHT (13.10.16.13(B)(4))

A. Implementation. The assigned is responsible for implementation of the process for each Provider Grievance. The Inquiry Specialist's responsibilities include those duties identified above, including but not necessarily limited to:

1. Monitoring for incoming grievances;
2. Determining grievance timeliness and eligibility;
3. Identifying the area(s) responsible for the subject matter(s) of the grievance, collecting information from such area(s), and asking the area(s) what if any supplement information is needed from the provider;
4. Timely sending the acknowledgement to the provider;
5. Requesting supplemental information from the provider;
6. Identifying panelists and panel chair and providing them documentation and information from the provider and from the area(s) responsible for the subject matter(s) of the grievance;
7. Scheduling, facilitating and documenting the outcomes of panel proceedings;
8. Drafting and timely sending Responses;
9. Gathering information and documentation requested by the OSI related to appeals of BCBSNM's Responses to Provider Grievances and coordinating with BCBSNM's regulatory specialist in timely furnishing such information and documentation to the OSI;
10. Serving as the provider's point of contact;
11. Ensuring that all deadlines are met;
12. Ensuring compliance with other HCSC policies and procedures, if applicable, including but not limited to those governing Protected Health Information (PHI);
13. Identifying and engaging any additional HCSC resources that are needed, including but not limited to the Legal Division;
14. Closing grievances in EAA when concluded (after the earlier of (i) the deadline for an appeal to the OSI if no appeal is submitted, (ii) rejection of the appeal by the OSI, or (iii) decision of the appeal by the OSI);
15. Maintaining the Grievance Log; and
16. Such other and further duties assigned by the Director, Customer Service Regulatory Inquiry.

B. Oversight. Oversight of the grievance process will be the responsibility of the Director, Customer Service Regulatory Inquiry.

VII. GRIEVANCE LOG (13.10.16.13(C))

The Director, Customer Service Regulatory Inquiry, shall ensure that a detailed log of Provider Grievances and BCBSNM's responses to them for at least the previous six (6) years is maintained and updated. by the Inquiry Specialists. Documentation for Provider Grievances are managed in the Enterprise Appeal Application (EAA) and stored according to corporate record timelines (See Corporate Records and Information Management Policy No. 9.01) but in no event less than six (6) years after the Provider Grievance is concluded, whether by Response or Appeal decision by OSI. The log shall store all grievance information and supporting documents in a secure electronic and/or paper format for the applicable retention period in accordance with regulatory and accreditation requirements. The grievance log shall be available upon request.

VIII. DEFINITION(S)

Termination - means the discontinuance of a provider's employment, contractual relationship, or other business relationship with, and initiated by BCBSNM. (Note: BCBSNM does not employ any health care providers who furnish covered services to

members.)

IX. PUBLICATION (13.10.16.12)

Upon approval by the OSI, this Plan should be published at www.bcbsnm.com. Neither the initial Plan nor changes to the Plan can be published without and until OSI approval.

X. CONTROLS/MONITORING

Line of Business and/or Area	Control Requirements
Regulatory Inquiry Group	Changes and updates to this policy and procedure will take place as needed with changes in OSI regulations.
Regulatory Inquiry Group Quality	Quality checks are given at employee level weekly to ensure the policy and procedures listed are being met.

XI. SOURCES/REFERENCES

Federal/State	Regulatory Requirements & References
NMAC	Grievance Procedure Regulations, Sections 13.10.16.1 *et seq.* NMAC (2023)

XII. REVIEWERS

Person Responsible for Review	Title	Date of Review
Walter Beard	Manager, Customer Service Regulatory Inquiry	
Jo McMillin	Supervisor Customer Service Regulatory Inquiry	

XIII. REVISION HISTORY

Description of Changes	Revision Date
New Template	

XIV. APPROVALS

Company, Division, Department and/or Committee	By: Name	Title	Approval date
Customer Service	Shalonda Langston	Director, Customer Service	
NM P&P Committee			
OSI (initial and any changes before publication)			