



Gavin Newsom, Governor
State of California
Health and Human Services Agency
DEPARTMENT OF MANAGED HEALTH CARE
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December 20, 2019

Stacey Wittorff
Legal Counsel, Center for Legal Affairs
California Medical Association
1201 K Street, Suite 800
Sacramento, CA 95814

Submitted electronically to swittorff@cmadocs.org

Re: AB 72 Uniform Written Procedures and Guidelines

Dear Ms. Wittorff:

Thank you for your October letter detailing the California Medical Association (CMA) concerns regarding the AB 72 Independent Dispute Resolution Process (IDRP). The Department of Managed Health Care (DMHC) appreciates the ability to work with CMA to ensure the IDRP process is equitable and meets the goals of the underlying statute.

The DMHC has considered CMA's suggestions and is working to make the following changes to the AB 72 Written Procedures and Guidelines (Guidelines):

- The DMHC will add a provision stating reviewers shall be assigned to each IDRP based on their relevant education, background, and medical claims payment and clinical experience. This language is already required, as it is part of the DMHC's contract with the independent organization providing the review, but the DMHC will clarify this in the Guidelines.
- The DMHC will add provisions stating the IDRP portal shall allow each party to submit information that will be kept confidential from the other party. This change is in response to CMA's concern that individual health professionals are limited in the evidence they can submit because, even if partially redacted, the other party may be able to identify the source contract. The DMHC will work with the independent organization to make appropriate system changes to the IDRP portal. Once these changes have been made, we will work with CMA on the rollout and messaging to providers related to the changes we are making to the IDRP portal.

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- The DMHC will add a provision stating the review shall be “de novo” and “true arbitration.” This is not a departure from current practice, but the DMHC will clarify this in the Guidelines.

The DMHC notes that CMA’s suggestion to limit the information the reviewer may consider when rendering a decision is already included in the Guidelines. In section 1.6.2, the Guidelines state, “The independent organization conducting the IDRP will consider only the information and documents timely submitted to the DMHC by the parties to the dispute when rendering a decision.” While this is in-keeping with CMA’s suggestion, to ensure the Guidelines are followed, the DMHC will confirm with the independent organization that it shall only consider the evidence submitted by the parties.

Thank you for your continued work with the DMHC on this matter. To discuss this matter further, please contact me via email at sarah.ream@dmhc.ca.gov or (916) 324-2522.

Sincerely,

/s/ Sarah Ream

Sarah Ream
Acting General Counsel