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# BlueCross BlueShield of Tennessee

## PROVIDER DISPUTE RESOLUTION PROCEDURE

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**PURPOSE:** To address and resolve any and all matters causing participating providers (“Providers”) or BlueCross BlueShield of Tennessee or its affiliated companies (“BCBST”) to be dissatisfied with any aspect of their relationship with the other party (a “Dispute”). Providers are encouraged to contact a representative of BCBST’s Provider Networks and Contracting Division if they have any questions about this procedure statement or concerns related to their network participation.

### I. INTRODUCTION.

- A. This Procedure describes the exclusive method of resolving any Disputes related to a Provider’s participation in BCBST’s network(s). It is incorporated by reference into the participation agreement between the parties (the “Participation Agreement”) and shall survive the termination of that Agreement.
  
- B. This Procedure shall only be applicable to resolve Disputes that are subject to BCBST’s or the Provider’s control, such as claims, administrative or certification issues. It shall not be applicable to issues involving third parties that are not within a party’s control (e.g. determinations made by a customer purchasing administrative services only (“ASO Customers”) from BCBST).
  
- C. This Procedure shall not be applicable to actions that may be reportable pursuant to the Federal Health Care Quality Improvement Act. As an example, the decision to not accept an applicant as a participating provider for failure to submit required information (e.g. proof of licensure), may be subject to resolution in accordance with this procedure. Matters involving peer review evaluation of an applicant’s professional qualifications, conduct or competence must be resolved pursuant to BCBST’s “Medical Management Corrective Action Plan” (Section XI.D).
  
- D. The initiation of a Dispute shall not require a party to delay or forgo taking any action that is otherwise permitted by the Participation Agreement.
  
- E. This Procedure statement establishes specific time periods for parties to respond to inquiries and requests for reconsideration. If it is not reasonably possible to provide a final response within those time periods, the responding party may, in good faith, advise the other party that it needs additional time to respond to that matter. In such cases, the responding party shall advise the other party of the status of that matter at least once every thirty (30) days until it submits a final response to the other party.
  
- F. The parties may agree to skip one or more steps of this procedure (e.g. mediation), to expedite the resolution of a Dispute. The parties will mediate a Dispute only if both parties agree to mediation.

- G. A party must commence an action to resolve a Dispute pursuant to this Dispute Resolution Procedure within two (2) years from the end of the year in which the event causing that Dispute occurred (e.g. the date of the letter informing the Provider of a determination) or, with respect to Provider requests for reimbursement of unpaid or underpaid claims, within two (2) years from the end of the year in which the claim was originally submitted. This provision shall not extend the period during which a Participating Provider must submit a claim to BCBST pursuant to applicable provisions of the provider's agreement(s) with BCBST, although the Provider may commence a dispute related to the denial of a claim that was not filed in a timely manner within two years after receiving notice of the denial of that claim. If BCBST discovers a matter creating a Dispute with a Participating Provider during an audit, which is in progress at the end of the two (2) year period referenced in this paragraph, it shall have one hundred twenty days (120) from the conclusion of that audit to initiate a Dispute concerning that matter. The failure to initiate a Dispute within that period specified in this subsection shall bar any type of action related to the event causing that Dispute, unless the parties agree to extend the time period for initiating an action to resolve that Dispute pursuant to this procedure statement.
- H. **ALL DISPUTES WILL BE SUBJECT TO BINDING ARBITRATION IF THEY CAN NOT BE RESOLVED TO THE PARTIES' SATISFACTION PURSUANT TO SECTIONS II (A-C) OF THIS PROCEDURE STATEMENT.**

## **II. DESCRIPTION OF THE DISPUTE RESOLUTION PROCEDURE.**

### **A. INQUIRY/RECONSIDERATION**

Providers should contact a representative of the BCBST division or department that is directly involved in any matter that may cause a Dispute between the parties. (e.g. the Claims Service Department if there is a question concerning a claims related issue). If Providers do not know whom to contact, they may contact a representative of the Provider Networks and Contracting Division for assistance in directing their inquiries to the appropriate BCBST representative. BCBST may initiate an inquiry by contacting the Provider or the person that the Provider designates to respond to such inquiries (e.g. an office manager). If a party cannot respond immediately to the other party's inquiry, it shall make a good faith effort to investigate and respond to that inquiry within thirty (30) days.

### **B. APPEAL.**

If not satisfied, a party may submit a written appeal within 30 days after receiving the other party's response to its inquiry/reconsideration. That request shall state the basis of the Dispute, why the response to its inquiry/reconsideration is not satisfactory, and the proposed method of resolving the Dispute. The receiving party will make a good faith effort to respond, in writing, within sixty (60) days after receiving that appeal.

### **C. MEDIATION.**

If not satisfied with the response to its appeal, a party may request mediation (or some other non-binding alternative dispute resolution process) by submitting a written request within thirty (30) days of receipt of the other party's appeal response. Both parties must agree to the mediation. Upon agreement, the parties shall cooperate, in good faith, to

designate a mutually acceptable mediation procedure or agency (e.g. the American Arbitration Association (“AAA”)) and a mediator, who is qualified to consider the issues likely to be raised during the hearing, within thirty (30) days after a party requests such mediation. The parties shall equally share the mediator’s fee and the costs of conducting that hearing, although each party shall be solely responsible for its costs of participating in that hearing (e.g. its attorney’s fees). The mediator may terminate any mediation if either party fails to comply with applicable rules or deadlines or if the parties are unable to voluntarily resolve their Dispute.

**D. BINDING ARBITRATION.**

If the parties do not resolve their Dispute, the next and final step is binding arbitration. If a party is not satisfied with an adverse decision, then it shall make a written demand that the Dispute be submitted to binding arbitration pursuant to the Commercial Arbitration Rules of the American Arbitration Association (current ed.). Either party may make a written demand for binding arbitration within thirty (30) days after it receives a response to its appeal or the conclusion of the mediation of that Dispute. The venue for the arbitration shall be Chattanooga, TN unless otherwise agreed. The arbitration shall be conducted by a panel of three (3) qualified arbitrators, unless the parties otherwise agree. The arbitrators may sanction a party, including ruling in favor of the other party, if appropriate, if a party fails to comply with applicable procedures or deadlines established by those Arbitration Rules.

Each party shall be responsible for one-half of the arbitration agency’s administrative fee, the arbitrators’ fees and other expenses directly related to conducting that arbitration. Each party shall otherwise be solely responsible for any other expenses incurred in preparing for or participating in the arbitration process, including that party’s attorney’s fees.

The claimant shall pay the applicable filing fee established by the American Arbitration Association, but the filing fee may be reallocated or reassessed as part of an arbitration award either, in whole or in part, at the discretion of the arbitrator/arbitration panel if the claimant prevails upon the merits. If the claimant withdraws its demand for arbitration, then the claimant forfeits its filing fee and it may not be assessed against BCBST.

The arbitrators: shall consider each claimant’s demand individually and shall not certify or consider multiple claimants’ demands as part of a class action; shall be required to issue a reasoned written decision explaining the basis of their decision and the manner of calculating any award; shall limit review to whether or not the Plan’s action was arbitrary or capricious; may not award punitive, extra-contractual, treble or exemplary damages; may not vary or disregard the terms of the Provider’s participation agreement, the certificate of coverage and other agreements, if applicable; and shall be bound by controlling law; when issuing a decision concerning the Dispute. Emergency relief such as injunctive relief may be awarded by an arbitrator/arbitration panel. A party shall make application for any such relief pursuant to the Optional Rules for Emergency Measures of Protection of the American Arbitration Association (most recent edition). The arbitrators’ award, order or judgment shall be final and binding upon the parties. That decision may be entered and enforced in any state or federal court of competent jurisdiction. That arbitration award may only be modified, corrected vacated for the reasons set forth in the United States Arbitration Act (9 USC § 1).

This arbitration provision supersedes any prior arbitration clause or provision contained in any other document. This arbitration clause may be modified or amended by BCBST and the Provider will receive notice of any modifications through updates to the Provider Manual.

**E. EFFECTIVE DATE.**

This procedure statement was adopted by BCBST on June 1, 1997.  
Last date of revision, November 1, 2003.