Provider Independent Review for TennCare & CoverKids

Information Guide for Providers TennCare or CoverKids

Claims Payment Disputes

What is Independent Review?

Independent Review is a process administered by the TennCare Oversight Division available for Providers to resolve TennCare services claims payment disputes.

T.C.A. § 56-32-126(b) governs the TennCare Program Independent Review process.

Effective 1/1/2021, the Contractor Risk Agreement also makes the Independent Review process available to CoverKids Program disputed claims.

How do I submit a Request?

Submit a written request to the Commissioner of Commerce & Insurance c/o TennCare Oversight Division.

A suggested Independent Review Request form can be found on the TennCare Oversight Division website at:

https://www.tn.gov/commerce/tenncare-oversight/mco-dispute-resolution/independent-review-process.html

The form is titled:

Request to Commissioner for Independent Review of Disputed Provider Claim

What health plans are included?

The TennCare/CoverKids MCCs:

- the 3 TennCare HMOs;
- the Dental Benefits Manager (DBM); and
- the Pharmacy Benefit Manager (PBM).

Who are the Independent Reviewers?

They are persons selected by a panel to hear disputes between TennCare MCCs and Providers. They act like judges in that they make decisions on claims disputes.

- Pursuant to T.C.A. § 56-32-126(b)(4), the Selection Panel for TennCare Reviewers selects the Independent Reviewers.

- The Panel consists of two Provider representatives, one representative from each of the two largest TennCare HMOs, and the Commissioner of the Tennessee Department of Commerce & Insurance or the Commissioner's designated representative. *See* T.C.A. § 56-32-126(b).

Who pays the Independent Reviewers?

- The MCCs pay the Independent Reviewers the fee amount set by the Selection Panel for TennCare Reviewers pursuant to T.C.A. § 56-32-126(b).

- However, if the Provider does not prevail in the independent review, the Provider is required to reimburse the MCC for the fee.

- So, it is the party that does not prevail that is ultimately responsible for paying the Reviewer.

What makes an Independent Reviewer "Independent"?

- Reviewers are not selected by the MCC, the Provider, the Department of Commerce & Insurance (TDCI) or the TDFA Division of TennCare (Bureau).
- Reviewers' compensation is not connected to the outcome of the reviews performed.
- Independent Reviewers are selected by the independent Selection Panel for TennCare Reviewers.

Two types of disputes can be sent to Independent Review

1) TennCare* Services Claim Denials or Recoupments

- **TennCare Program service** rendered to a TennCare* enrollee; **and**
- MCC partially or totally denied/recouped the claim *(or the MCC failed to respond to the claim by issuing an RA within 60 calendar days)*; **and**
- Provider requested reconsideration of the denial or recoupment in writing; **and**
- 30 days have passed since the MCC received the reconsideration request.

* Effective 1/1/2021, CoverKids claim denials or recoupments are included.

Two types of disputes can be sent to Independent Review (continued)

2) Episode of Care Annual Report Disputes

- Episode-based payment seeks to align provider incentives with successfully achieving a patient's desired outcome during an “episode of care,” which is acute or specialist-driven health care delivered during a specified time period to treat a physical or behavioral condition. Ultimately, the provider gets an annual “report”.

- If a provider disagrees with the report, use the suggested form titled:

  Request to Commissioner for Independent Review of Disputed TennCare Episode of Care Cycle Provider Gain/Risk Share Total

This form can be found at:

https://www.tn.gov/commerce/tenncare-oversight/mco-dispute-resolution/independent-review-process.html

What are the eligibility limitations for Independent Review?

- Request must be received by the TennCare Oversight Division within 365 days of the initial denial or recoupment.
- Request must include a copy of the Provider's request for reconsideration of the denial or recoupment.
- Non-contracted Providers must submit a check for $750.00 with the Request.
- The claim(s) must not be involved in arbitration or litigation.

What happens when the TennCare Oversight Division receives an Independent Review Request?

The TennCare Oversight Division conducts a preliminary eligibility review to ascertain the following:

- Was the Request received within 365 days of the initial denial or recoupment?
- Whether the Provider is network contracted. If not contracted, was the required fee submitted?
- Does the dispute involve TennCare (or CoverKids) services claim(s)?

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What happens when the TennCare Oversight Division receives an Independent Review Request?
(continued)

- Is there documentation that a claim was denied or recouped in whole or in part?
- Is there documentation of Provider's Reconsideration Request of the denial/recoupment?
- Are the materials submitted legible?
- Does the submission appear to be complete?

If the submission is eligible, the Division refers the Request to an Independent Reviewer.

What happens if my request is not eligible for Independent Review?

- When a Request does not meet eligibility requirements required by T.C.A. § 56-32-126(b), the TennCare Oversight Division will generally process the Request as a Provider Complaint.

- The Division will send written notice to the Provider saying why the Request is not eligible for Independent Review and whether the Request is being processed as a Provider Complaint.

Can I aggregate multiple claims disputes into one Independent Review Request?

YES, if there is one specific claims denial reason involving one "common" question of fact or law and the Request does not involve more than one Episode of Care Report.

- Can a Reviewer decide one claim and apply that decision to all claims?
- The mere fact that claims are not paid does not create a common substantive question of fact or law.
- The Reviewer makes the final determination as to whether claims are eligible for aggregation.

What happens if I request claims be aggregated when they are not eligible for aggregation?

- If a Reviewer determines that claims should not have been aggregated, a fee will be assessed for each claim that cannot be aggregated with another claim.

- The Reviewer will explain the reason for this determination.

Aggregated request issues

- Multiple claims denied/recouped for Medical Necessity are not eligible for aggregation.

- When an aggregated request contains claims for multiple enrollees (>5), the provider should submit electronic Excel Spreadsheets listing all enrollees with appropriate demographic data, including Name, DOB, SSN, and DOS.

Who pays for the review?

Contracted Providers (Par-Providers)

- The MCC always pays the Reviewer.
- If a contracted Provider loses the Independent Review, the Provider must reimburse the MCC the fee.
- If a losing Provider does not refund the MCC the fee, the TennCare Oversight Division may prohibit that Provider from future participation in the Independent Review process.

Who pays for the Independent Review?

Non–Contracted Providers (Non-Par Providers)

- The MCC always pays the Reviewer.
- Non-contracted Providers must submit the Reviewer fee to the TennCare Oversight Division with the Request for Independent Review.
- If the non-contracted Provider wins the review, TDCI will return the money held to the Provider.
- If the MCC wins, TDCI will pay the MCC.

(If the claim is not eligible for Independent Review, the fee will be returned to the non-contracted Provider.)

How much is the Independent Review fee?

- The Independent Reviewer fee is $750.00 per Independent Review Request. ($450.00 if settled prior to Decision.)

- If claims are “aggregated” into one Independent Review Request, there is only one fee of $750.00.

(Remember that the Independent Reviewer makes the final determination of whether requests are appropriately aggregated. Therefore, the final amount of fees per submitted request may increase.)

How can I request an Independent Review?

Fill out the information requested on the Request for Independent Review form and attach or enclose supporting documents. Please submit in electronic format.

- Always include documentation that the claim was denied, and you requested reconsideration of the denial.
- Include everything supporting your position. You may include a narrative letter explaining why you think the MCC was wrong.
- If you are relying on MCG standards or other guidelines, include a copy.

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How can I request an Independent Review?
(continued)

- Always include your email address and fax number.

- If you submit by surface delivery, please send an encrypted CD or thumb drive. Send the password by separate email.

Where do I send the request?

Send the Request to:

Fax: 615-401-6834

Email: TennCare.Oversight@tn.gov

Surface Delivery:

Compliance Office, TennCare Oversight Division
TN Dept of Commerce & Insurance
500 James Robertson Parkway, 8th Floor
Nashville, TN 37243-1169

Where can I get the request for Independent Review form?

- The Independent Review Request Forms are located on our website at:
  https://www.tn.gov/commerce/tenncare-oversight/mco-dispute-resolution/independent-review-process.html
- A provider may also call 615-741-2677 to request the form.

Will I be contacted by the Reviewer?

- Yes. The Reviewer will contact the Provider and the MCC by certified mail, return receipt requested, or by date and time marked facsimile.

The Reviewer will ask the Provider and the MCC to provide any additional written information and documentation that the Provider or MCC wants the Reviewer to consider.

How will I know who wins the Independent Review?

- The Reviewer will tell you.
- The Reviewer will write a decision and send a copy to the Provider, MCC, and the TennCare Oversight Division.

Can I appeal the Independent Reviewer decision ?

Not exactly. T.C.A. § 56-32-126(b)(3)(D) states either party may file suit against the MCC and Provider, but not the Independent Reviewer, in any court having jurisdiction to review the Reviewer's decision. The suit must be filed within 60 days of the Reviewer's decision.

Any claim concerning a Reviewer's decision not brought within sixty (60) calendar days of the Reviewer's decision will be forever barred.

If I win, when will I get my money?

The MCC must pay the Provider within 20 days of receipt of the Reviewer's decision.

What if the MCC does not pay when I win?

The Provider should contact TDCI by secure/encrypted email, facsimile, or surface mail if payment is not received within 20 days of receipt of the Reviewer's decision.

- An email should be sent to: TennCare.Oversight@tn.gov
- A facsimile should be sent to: 615-401-6834
- If your email (or any email attachment) contains any PHI, the email must be sent by HIPAA compliance secure email.

What will the TennCare Oversight Division do if the MCC does not pay as decided?

The Division will require the MCC to show proof that the MCC has done what the Reviewer decided to avoid assessment of liquidated damages.

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