

[INSURANCE MEMORANDUM CIRCULAR NO. 2017-01, February 14, 2018]

RULES OF PROCEDURE FOR ADJUDICATION OF CASES AGAINST HEALTH MAINTENANCE ORGANIZATIONS IN THE INSURANCE COMMISSION

Date Filed: 14 February 2018

Pursuant to Section 4 of Executive Order No. 192, Series of 2015, which transferred the regulation and supervision of all Health Maintenance Organizations (HMOs) to the Insurance Commission (IC), the following Rules of Procedure for Adjudication of Cases against HMOs are hereby adopted and promulgated:

**RULE I
TITLE AND CONSTRUCTION**

SECTION 1. TITLE OF THE RULES. - These Rules shall be known as "The Rules of Procedure for Adjudication of Cases Against Health Maintenance Organizations in the Insurance Commission."

SECTION 2. CONSTRUCTION. - These Rules shall be liberally construed to carry out the objectives obtaining just, expeditious and inexpensive resolution and settlement of disputes.

SECTION 3. SUPPLETORY APPLICATION OF THE RULES OF COURT. - In the absence of any applicable provision in these Rules, the pertinent provisions of the Rules of Court of the Philippines may, in the interest of expeditious dispensation of justice and whenever practicable and convenient, be applied by analogy or in a suppletory character and effect.

**RULE II
SCOPE AND JURISDICTION**

SECTION 1. SCOPE AND JURISDICTION. - This Rules shall govern hearings of such claims and complaints where the issue/s pertain to membership issues or benefits and services issues with an HMO under an HMO agreement. Except as to the amount of actual damages, attorney's fees and costs, which include filing fees and litigation expenses, no other form of damages shall be recoverable. This Rules will only apply for complaints filed by a member against an HMO. This Rules will not apply in disputes arising from the contractual relations between HMOs and affiliated hospitals, medical clinics, and physicians.

**RULE III
DEFINITION OF TERMS**

SECTION 1. Definition of Terms. - For purposes of this Rule:

(a) *Complainant* refers to the member, whether a natural or juridical person, who initiated a complaint against an HMO doing business in the Philippines, for issues pertaining to membership with an HMO or denial of benefits and services under an HMO agreement;

(b) *Respondent* is the HMO against whom the relief sought is directed;

(c) Person is a natural individual, corporation, partnership, limited liability partnership, association, or other juridical entity endowed with personality by law;

(d) *Health Maintenance Organization (HMO)* refers to a juridical entity legally organized to provide or arrange for the provision of pre-agreed or designated health care services to its enrolled members for a fixed pre-paid fee for a specified period of time.

(e) Member refers to the principal and/or dependent who is eligible and has been accepted for membership by an HMO after complying with the Eligibility

Provision and who is currently enrolled under an HMO agreement.

(f) Complaint refers to a pleading alleging the cause or causes of action of the complainant. The names and addresses of all complainants and respondents must be stated in the complaint. It shall be verified under oath by the complainant with a certificate of non-forum shopping. A party having more than one cause of action against the respondent, arising out of the same HMO Agreement, shall include all of them in one complaint;

(g) Answer refers to a pleading in which a respondent sets forth his defenses. It shall be verified under oath by the authorized representative of the respondent;

(h) Certificate to File Action refers to a certification or any written document issued by the Public Assistance and Mediation Division certifying the fact that parties had undergone mediation and failed to reach an amicable settlement;

(i) Membership Issues include, but are not limited to, any of the following:

1. Eligibility for Enrollment;
2. Cancellation of Membership;
3. Return of Membership Fees upon cancellation of membership;
4. Effective Date and Expiry Date of Membership; and
5. Membership Fees;

(j) Benefits and Services Issues include, but are not limited to, any of the following:

1. Determination if particular injury, illness, disability, or defect is covered under an HMO Agreement;
2. Annual Benefit Limit;
3. Eligible Expenses;

4. Issuance/Non-Issuance of Letter of Authority;
5. Maximum Benefit Limit;
6. Medical Necessity; and
7. Room and Board Accommodation;

(k) Commission refers to the Insurance Commission and its District Offices;

(l) Commissioner refers to the Insurance Commissioner;

(m) Hearing Officer refers to a lawyer/s under the Claims Adjudication Division and the District Offices with the position of at least IC Attorney I; and

(n) Doctor's Affidavit refers to an affidavit executed by the attending physician or company physician, as the case may be, submitted by both parties in support of their respective position as to why a particular injury, illness, disability, or defect is covered or not covered under an HMO Agreement.

RULE IV PLEADINGS, NOTICES AND APPEARANCES

SECTION 1. PLEADINGS ALLOWED. - The only pleadings allowed to be filed are the complaints and the answers thereto which shall be verified under oath.

SECTION 2. CAPTION AND TITLE. - In all cases filed with the Commission, the party initiating the action shall be called the "Complainant" and the opposing party the "Respondent".

The full names of all the real parties in interest, whether natural or juridical persons or entities authorized by law, shall be stated in the caption of the complaint, as well as in the decisions, resolutions or orders of the Commission.

SECTION 3. FILING AND SERVICE OF PLEADINGS. - All pleadings in connection with a case shall be filed with the Commission, as the case may be.

The party filing a pleading shall serve the opposing parties with a copy and its supporting documents. No pleading shall be considered without proof of service to the opposing parties except if filed simultaneously during a schedule set before the Commission.

SECTION 4. SERVICE OF NOTICES, RESOLUTIONS, ORDERS AND DECISIONS. -

- a) Notices and copies of resolutions or orders, shall be served upon the parties by registered mail or by private courier;
- b) In case of decisions, copies thereof shall be served on both parties and their counsel or representative by registered mail or by private courier; Provided that, in cases where a party to a case or his/her counsel on record personally seeks service of the decision upon inquiry thereon, service to said party shall be deemed effected as herein provided. Where parties are numerous, service shall be made on counsel and upon such number of complainants, as may be practicable.

For purposes of appeal, the period shall be counted from receipt

of such decisions, resolutions, or orders by the counsel or representative of record.

SECTION 5. APPEARANCES -

- a) A lawyer appearing for a party is presumed to be properly authorized for that purpose. In every case, he/she shall indicate in his/her pleadings and motions his/her Attorney's Roll Number, as well as his/her PTR and IBP numbers for the current year and MCLE compliance.
- b) Appearances of a non-lawyer in contravention of this section shall not be recognized in any proceedings before this Commission.
- c) Appearances may be made orally or in writing. In both cases, the complete name and office address of counsel or authorized representative shall be made of record and the adverse party or his counsel or authorized representative properly notified.
- d) In case of change of address, the counsel or representative shall file a notice of such change, copy furnished the adverse party and counsel or representative, if any.
- e) Any change or withdrawal of counsel or authorized representative shall be made in accordance with the Rules of Court.

SECTION 6. AUTHORITY TO BIND PARTY. - Counsel or other authorized representatives of parties shall have authority to bind their clients in all matters of procedure; but they cannot, without a Special Power of Attorney or express consent, enter into a compromise agreement with the opposing party in full or partial discharge of a client's claim.

**RULE V
PROCEEDINGS BEFORE THE INSURANCE COMMISSION**

SECTION 1. NATURE OF PROCEEDINGS. - The proceedings before the Commission shall be non-litigious in nature. Subject to the requirements of due process, the technicalities of law and procedure and the rules obtaining in the courts of law shall not strictly apply thereto. The Hearing Officer may avail himself/herself of all reasonable means to ascertain the facts of the controversy speedily, including ocular inspection and examination of well-informed persons.

SECTION 2. COMMENCEMENT OF ACTION. - An action shall commence upon the filing of a complaint verified under oath with a certificate of non-forum shopping, certificate to file action, and payment of docket fees.

If the complaint does not include the certificate to file action as defined under Section 1(h), Rule 3, the hearing officer of this Commission must endorse the complaint to the Public Assistance and Mediation Division of this Commission for the conduct of mediation, if none has been had, or the issuance of a certificate to file action, if mediation had already been conducted and terminated.

SECTION 3. DOCKET FEES. - Upon the filing of a complaint, the complainant shall pay a docket fee to be determined on the basis of the principal amount being claimed, exclusive of interest and attorney's fees as follows, to wit:

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Principal Amount Being Claimed	Docket Fee
P100,000.00 and below	P1,000.00
More than P100,000.00 up to P200,000.00	2,000.00
More than P200,000.00 up to P300,000.00	3,000.00
More than P300,000.00 up to P400,000.00	4,000.00
More than P400,000.00 up to P500,000.00	5,000.00
More than P500,000.00 up to P600,000.00	6,000.00
More than P600,000.00 up to P700,000.00	7,000.00
More than P700,000.00 up to P800,000.00	8,000.00
More than P800,000.00 up to P900,000.00	9,000.00
More than P900,000.00 up to P1,000,000.00	10,000.00
More than P1,000,000.00 up to P2,000,000.00	15,000.00
More than P2,000,000.00 up to P3,000,000.00	20,000.00
More than P3,000,000.00 up to P4,000,000.00	25,000.00
More than P4,000,000.00 up to P5,000,000.00	30,000.00
More than P5,000,000.00	35,000.00

Plus an amount equivalent to one percent (1%) of the filing fee but in no case shall be less than Ten Pesos (P10.00) to be collected as Legal Research Fund Fee in accordance with Republic Act No. 3870, as amended by President Decree No. 1856, dated December 26, 1982.

SECTION 4. INDIGENT PARTY. - A party may be authorized to litigate his action as an indigent if the Commission, upon an ex parte application and hearing, is satisfied that the party is one who has no money or property sufficient and available for food, shelter and basic necessities for himself and his family.

Such authority shall include an exemption from payment of docket and other lawful fees and of transcripts of stenographic notes. The amount of the docket and other lawful fees which was exempted shall be a lien on any judgment rendered in the case favorable to the indigent.

SECTION 5. DOCKETING OF COMPLAINT. - After payment of the docketing fee, the Commission shall enter the case in its docket book and a corresponding case number shall be inscribed in the complaint.