

4123-6-17 Bureau refusal to certify or recertify, action to decertify a provider or MCO - standards and procedures for adjudication hearings.

- (A) The administrator of the bureau of workers' compensation may refuse to certify or recertify or may decertify a provider or MCO as provided in the rules of this Chapter.
- (B) The bureau shall monitor and may investigate a provider or MCO, and may participate with other state or federal agencies or law enforcement authorities in gathering evidence for such matters.
- (C) Prior to the administrator issuing an adjudication order on the matter, the administrator shall afford the provider or MCO an opportunity for a hearing in accordance with the provisions of Chapter 119. of the Revised Code and this rule.
- (D) Prior to the administrator entering an adjudication order, the bureau shall send written notice to the provider or MCO by certified mail containing the following information:
 - (1) A statement of the reasons and a summary of the evidence relied upon for the proposed administrative action concerning the provider or MCO;
 - (2) A citation of statutes or rules forming the basis for the administrative action;
 - (3) A statement indicating that the provider or MCO is entitled to a hearing, if requested within thirty days of the time of the mailing of the notice;
 - (4) A statement indicating that the provider or MCO may appear at the hearing in person, and may be represented by an attorney, or may present its position, arguments or contentions in writing;
 - (5) A statement that at the hearing the provider or MCO may present evidence and examine witnesses appearing for and against the provider or MCO, and that the provider or MCO may request that the bureau issue subpoenas to compel the attendance of witnesses;
 - (6) A statement informing the provider or MCO that if the bureau does not receive a request for a hearing within thirty days of the time of mailing of the written notice, the administrator may proceed with an adjudication order concerning the provider or MCO.
- (E) If no timely request for a public hearing is made by the provider or MCO, the administrator may issue an adjudication order concerning the provider or MCO. Such order shall be sent by certified mail to the provider or MCO.
- (F) If the provider or MCO files a timely request for a hearing, the bureau shall immediately set the date, time, and place for such hearing, not less than seven nor more than fifteen days from the bureau's receipt of the request for hearing. The bureau shall notify the provider or MCO and any representatives of the hearing. The bureau may continue the date of the hearing upon the application of any party or upon its own motion. The hearing shall be held at the bureau central office in Columbus, but if requested by the provider or MCO, the bureau may hold the hearing in the bureau office closest to the place of business of the provider or MCO.
- (G) Conduct of hearing.
 - (1) The administrator may conduct the hearing personally or may delegate the hearing to a referee, who shall be an attorney at law. The referee may be from the bureau's legal division or an attorney employed by the administrator especially for such purpose. The burden of proof shall be on the bureau

to establish cause for taking action against the provider or MCO, and shall be by a preponderance of the evidence. The bureau shall be represented by the attorney general at the adjudication hearing. A stenographic record of the hearing shall be made. Should the hearing be conducted by a referee, the referee shall issue a report and recommendation, a copy of which shall be sent to all parties and representatives by certified mail, and which may be objected to in writing within ten days of receipt of the report and recommendation. The administrator may approve, disapprove, or modify the report and recommendation of the referee, but shall not take such action until the after the expiration of the period for objection to the referee's report. The administrator may order additional testimony. The administrator shall issue a written order and shall send, by certified mail, a certified copy of the order and a statement of the time and method by which an appeal may be perfected to the provider or MCO. The administrator shall also mail a copy of the order to any representative of the provider or MCO.

- (2) Should the hearing be conducted by a referee, the referee shall issue a report and recommendation, a copy of which shall be sent to all parties and representatives by certified mail, and which may be objected to in writing within ten days of receipt of the report and recommendation. The administrator may approve, disapprove, or modify the report and recommendation of the referee, but shall not take such action until after the expiration of the period for objection to the referee's report.
- (3) The administrator shall issue a written order and shall send, by certified mail, a certified copy of the order and a statement of the time and method by which an appeal may be perfected to the provider or MCO. The administrator shall also mail a copy of the order to any representative of the provider or MCO.
- (H) Should the provider or MCO prevail in the adjudicating hearing, the provider or MCO may be entitled to attorney fees. The procedure for determining attorney fees shall be in accordance with section 119.092 of the Revised Code.
- (I) Should the provider or MCO be adversely affected by the order of the administrator, the provider or MCO may file a notice of appeal of the decision in accordance with section 119.12 of the Revised Code.
- (J) Any adjudicating order of the administrator to decertify, or to refuse to recertify a provider or MCO shall include a clear indication of the beginning date of such action and the specific medical services or dates of medical services or supplies that shall be excluded from payment.

Effective: 11/13/15

Prior Effective Dates: 2/16/96, 1/1/99, 2/14/05, 2/1/10