

**Technical Advisory Interpreting 28 Pa. Code §9.704(c) (Relating To Appeal Of A Complaint Decision) and 28 Pa. Code §9.707(b)(6) (Relating To External Grievance process) Regarding Content of Transmittal Letters of Enrollees' Case Files**

The Department of Health's (Department) managed care regulations require that managed care plans provided the Department with an enrollee's case file for a third level complaint upon the Department's request. (28 Pa. Code §9.704(c)). Included in those case files, plans are required to provide relevant contract information and all material considered as part of the two levels of review held at the plan level. (Id.) With respect to grievances, plans are to forward to the assigned certified review entity copies of the decision, reasonably necessary supporting information and a summary of applicable issues. (28 Pa. Code §9.707(b)(6)(iii)). Along with the complaint files being appealed, some plans have also been providing to the Department a detailed argument advocating the plan's position with respect to the case as part of the transmittal of the case file. Plans are also providing a similar document advocating their position to the CRE along with grievance files as well.

The Department is instructing plans that if they wish to provide a summary of the case along with the transmittal memorandum to the Department with a complaint appeal, the summary should be brief, should not be argumentative, and should not advocate the plan's position. The transmittal of the case file is intended simply to provide the Department with a list of documents in the enrollee's file, and with the file itself. The Department does not review the transmittal memorandum as part of its review of the case. If the plan wishes to make arguments in support of its position, it may do so pursuant to section 704(d), but it must also provide a copy of that document to the enrollee as required by that section. (28 Pa. Code §9.704(d)).

With respect to the transmittal of grievances to CREs, the term "summary" in section 9.707(b)(6)(iii) is not intended to be an adversarial document. It is intended to provide a description of issues for the benefit of the CRE, not to advocate the plan's position. The role of the CRE is to review the clinical aspects of the case as an independent reviewer, not as a legal decision maker. Advocating for the plan's position in a summary document provided to the CRE is not appropriate. Again, if the plan wishes to provide additional information to the CRE, it may do so through section 9.707(b) (8), but again it must also provide a copy of that document to the enrollee. (28 Pa. Code §9.707(b)(8)).

Comments, suggestions or questions should be directed to the Bureau of Managed Care at phone 717-787-5193 or in writing to the attention of Stacy Mitchell, Director, Bureau of Managed Care, 912 Health and Welfare Building, Harrisburg, PA 17120.