

**Pennsylvania Department of Health**  
**Bureau of Managed Care**

**Technical Advisory**

<b><u>Title:</u></b>	<b><u>Technical Advisory Interpreting 28Pa.Code §9.703(c)(1) (i) and 2(i) and 28 Pa.Code § 9.705(c)(1)(i) and (2)(i) (relating to the internal complaint and grievance processes) Regarding Time Frames for Acknowledging the Receipt of Complaints and Grievances by a Managed Care Plan</u></b>
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The Pennsylvania Department of Health’s (Department) regulations relating to managed care organizations (28 Pa. Code ch. 9), require that a managed care plan follow certain standards in processing a complaint or grievance filed by an enrollee pursuant to Article XXI of the Insurance Company Law of 1921 (40 P.S. §§ 991.2101, 991. 2111(a)(1), (8) & (9)) (commonly referred to as “Act 68”), Section 10 of the HMO Act (40 P.S. § 1560(e)); and the PPO Act (40 P.S. § 764a(e)). These standards are intended to make the complaint and grievance process, which could otherwise be heavily weighted on the side of the plan, fair and simple for the enrollee to pursue. Pursuant to 28 Pa.Code §9.703(c)(1) (i) and 2(i) and 28 Pa.Code § 9.705(c)(1)(i) and (2)(i), both at the first and at the second level of review, a plan is required to provide to the enrollee confirmation that the enrollee’s complaint or grievance has been received by the plan. The regulations require that the confirmation include information relating to how the complaint or grievance will be processed at each level. For example, the confirmation is to include, at the first level of both types of appeal, information as to whether the plan considers the matter to be a complaint or a grievance, so that the enrollee can challenge that designation (28 Pa. Code § 9.702(c)(3)); that the enrollee may appoint a representative at any time during the proceeding (28 Pa. Code § 9.702(a)(4)); that the enrollee may review information relevant to the complaint or grievance and submit additional material to be considered by the plan (28 Pa. Code §§ 9.703(c)(1)(iii) & (2)(i) & 9.705(c)(1)(iii)); that the enrollee may request the aid of a plan employee not involved in the decisions to help in preparing the complaint or grievance (28 Pa. Code § 9.702(a)(6)); and that the enrollee may attend the first level review if the plan chooses to allow it. At the second level, the confirmation is to include an additional statement that help from the plan is available, as well as notification that the enrollee must be permitted to attend the second level review (28 Pa. Code § 9.703(c)(iii)(A) & 9. 705(c)(iii)(A)), and information relating to the makeup of the committee. (28 Pa. Code §§ 9.703(c)(2)(ii)(A) & 9.705(c)(2)(ii)).

The Department wants to ensure that both complaints and grievances, received by plans either orally or in written form, are acknowledged by those plans in a timely, consistent and appropriate manner so that the enrollee is able to exercise the rights in the complaint or grievance process that are made available to the enrollee through Act 68, the HMO Act and the PPO Act, and the Department’s accompanying regulations interpreting those acts. Without timely communication, the enrollee would be unable to exercise those rights in a meaningful way. Therefore, the Department has determined that the appropriate time frame for acknowledging the receipt of an appeal of complaints and grievances by means of a “written confirmation,” should be not more than **5 business days** from the date that the oral or written appeal was received by the MCO. Anything more than this would result in the enrollee’s inability to take advantage of those rights that create a fair process for the enrollee to complain or grieve a decision by the plan.

<b><u>Contact Information:</u></b>	Comments, suggestions or questions regarding this technical advisory should be directed to the Bureau of Managed Care at (717) 787-5193 or in writing to : JoAnn Cheeseman, RN Director, Division of Quality Review Pennsylvania Department of Health Bureau of Managed Care 912 Health and Welfare Building 7 <sup>th</sup> and Forster Streets Harrisburg, PA 17120  telephone: (717) 787-5193 fax: (717) 705-0947
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