

## **DMEPOS<sup>CM</sup> Appeals Procedure**

This procedure sets forth the process for DMEPOS suppliers to appeal the NABP decision to either deny or remove accreditation.

### **Procedure**

1. In the event that NABP shall deny initial accreditation to a DMEPOS supplier or shall remove such accreditation from a DMEPOS supplier, the DMEPOS supplier, may appeal the decision of NABP.
2. In the case of removal, the DMEPOS accredited supplier shall not retain its DMEPOS accreditation, and shall be deemed unaccredited while the matter is under appeal.
3. Provided all fees and expenses invoiced by NABP have been paid, the DMEPOS supplier may file a written Notice of Appeal with the Executive Director/Secretary of NABP within 21 days of the date of the notice of denial or removal. Such Notice of Appeal shall set forth the specific facts supporting the grounds on which the appeal is based.
4. Payment must be submitted with the Notice of Appeal to be applied to the costs incurred by convening the DMEPOS Appellate Commission, which will hear the appeal.
5. NABP shall immediately convene the DMEPOS Appellate Commission; this consists of three independent panelists knowledgeable in DMEPOS activities and appointed by NABP.
6. The appealing party may request an audit of its compliance with the DMEPOS Accreditation Program Criteria. If the appealing party requests an audit an additional fee, equivalent to the then existing survey fee, shall be submitted and will be applied to the costs of performing the audit. The audit shall be conducted by surveyors who were not involved in the initial survey and at the appealing party's expense. A written report of the audit findings will be provided to: 1) the appealing party; 2) NABP; and 3) members of the Appellate Commission. The time requirements hereinafter set forth shall be deemed to commence after the requested audit has been concluded.
7. Unless otherwise agreed by the parties, the Appellate Commission shall set a date, time, and place for a hearing on the appeal not more than 60 days from the date of the receipt of the notice of appeal, or the date after the audit is concluded under paragraph (6) above, whichever may be applicable.
8. The NABP and the appealing party shall have the right to representation by counsel throughout the appeal procedure.
9. All reasonable expenses incurred by the Appellate Commission including, but not limited to travel expenses (ie, transportation, accommodations, and meals) shall be paid by the appealing party.

10. Failure of the appealing party to pay the Appellate Commission's reasonable expenses, in full, within 7 days of the date of the bill or invoice, shall result in termination of the appeals procedure.
11. In the event that any person designated as a member of the Appellate Commission shall be disqualified or shall refuse or be unable to serve for any reason at any time, an alternate member shall be selected by NABP. The member's service and affiliation with NABP, the NABP Executive Committee, and the Appellate Commission shall not be grounds for disqualification based upon claims of conflict-of-interest, bias, or the like.
12. Unless otherwise agreed to by the parties not less than 10 days before the hearing, the appealing party and NABP shall present written statements of their respective positions to the Appellate Commission.
13. Each party may present evidence at the hearing.
14. Unless otherwise agreed to by the parties, closing arguments shall be submitted to the Appellate Commission in writing at such addresses as the Appellate Commission shall indicate with copies to NABP and the appealing party within 14 days of the conclusion of the hearing.
15. Within an additional 30 days thereafter, the Appellate Commission shall render a decision:
  - a. to affirm the decision of NABP; or
  - b. to reverse the decision of NABP and grant or restore DMEPOS accreditation.
16. A written report of the Appellate Commission's findings and decision shall be submitted to the Executive Director/Secretary of NABP and the appealing party. The decision of the Appellate Commission to deny or grant accreditation is final.