

This is an amendment to 6.50.16 NMAC, Sections 7, 13 and 15, effective 12/10/2024.

6.50.16.7 DEFINITIONS: As used in this rule:

A. “**Authority**” means the New Mexico public school insurance authority or its authorized representatives.

B. “**Authority board**” or “**board**” means the board of directors of the New Mexico public school insurance authority.

C. “**Appellant**” means any party who complains that a coverage determination may be in violation of any law, rule, regulation, or order administered or promulgated by the authority and who initiates a proceeding under this rule by filing a petition for review with the authority.

D. “**Coverage determination**” and “**determination**” mean any decision, order or disposition by the authority denying coverage, limiting the scope of coverage or limiting the amount of payment of a claim of a member or employee, except for workman’s compensation claims.

E. “**Document**” means, except as otherwise used in the provisions of this rule governing discovery, any written submission in a formal proceeding which is not a pleading or which is required to be filed by authority rule or order outside a formal pleading; this includes items such as reports, exhibits, and studies; at the option of the party or staff making a filing, any document may additionally be presented in a form the hearing officer so orders.

F. “**Employee**” means a person employed by a member school district, charter school or other educational entity, or an employee’s representatives in the event of legal incapacity, and includes volunteers or officials entitled to authority liability coverage pursuant to the Tort Claims Act, Subsection F of Section 41-4-3 NMSA 1978.

G. “**Final coverage determination by the authority**” with respect to a member means a coverage letter from the ~~[authority’s contracted]~~ authority in consultation with general counsel or contracted claims adjuster or with respect to an employee means a coverage letter from the authority’s contracted third party benefits administrator or authorized authority staff member.

H. “**Hearing**” means any proceeding that is noticed for “hearing” by the authority or hearing officer and shall include an opportunity for the parties to present such evidence, argument, or other appropriate matters as the presiding officer shall deem relevant and material to the issues; hearings may be conducted by telephone conference call at the discretion of the presiding officer.

I. “**Hearing officer**” means a person appointed by the authority as a hearing examiner, who is designated by the authority to conduct any hearing or investigation which the authority is authorized to conduct, to take testimony in respect to the subject under investigation, report such testimony and provide to the authority a proposed decision with regard to the issues.

J. “**Member school districts, charter schools and other participating entities**” herein referred to collectively as “**members**” means all public school districts and charter schools mandated by the act to be members of the authority and all other educational entities voluntarily participating in the authority.

K. “**Party**” means any person or entity that initiates or responds to an authority proceeding by filing a petition for review with the authority and includes the authority; unless the context indicates otherwise, the term “party” may also refer to counsel of record for the party.

[6.50.16.7 NMAC - Rp, 6.50.16.7 NMAC, 09/01/2014; A, 12/10/2024]

6.50.16.13 PRE-HEARING PROCEDURE:

A. Hearing officer. The board shall appoint a hearing officer for an appeal within seven days after mailing the notice of setting. The board shall provide appropriate clerical support and space for any hearings conducted. Venue for any hearings shall be Santa Fe county unless the hearing officer in view of convenience to parties and witnesses orders that another location ~~[is]~~ or virtual attendance is more appropriate. The hearing officer shall oversee all proceedings after the hearing is set. The hearing officer will also provide written findings of fact and a disposition recommendation to the board within 14 days after completion of a hearing. The board shall make a final decision, after review of the recommendations of the hearing officer, and mail a notice of final decision to appellant within 30 days of receipt of the hearing officer’s recommendations.

B. Representation of parties:

(1) The authority shall be represented in proceedings under this rule by its general counsel or a staff member of the authority appointed by the executive director for this purpose.

(2) The appellant may appear pro se, if appellant is an individual, or by an administrator of an institutional appellant who has been appointed for that purpose by the governing body of the institution. Any appellant may be represented by legal counsel licensed to practice law in the state of New Mexico.

C. Production of authority documents:

(1) Should a hearing be set by the board, the authority shall make available for copying and inspection all documents that the authority determines to be relevant to the initial determination being appealed within seven days of the date the hearing setting is issued. "Relevance," in this context is to be construed liberally in favor of production.

(2) Documents may be withheld or redacted by the authority only when the relevant material is protected from disclosure or otherwise privileged under New Mexico law. In the interest of complete disclosure, redaction shall be favored over withholding the document.

(3) Should any documents be withheld pursuant to New Mexico law, a list or privilege log generally identifying each document, its contents and the claimed privilege shall be provided to the appellant at the time of production.

(4) Documents produced shall be made available for inspection and copying at the offices of the authority.

D. Production of appellant or other party documents: The hearing officer for good cause shown may order inspection, production and copying of documents deemed relevant that are in the possession, custody or control of the appellant member, employee or other party.

E. Authority, appellant, member and employee arguments: At least 14 days before the date set for the hearing, all parties shall file simultaneously memorandums stating their complete arguments for or against the authority determination, including a statement of relevant facts, an outline of controlling law and the relief requested. Each party must mail or deliver the original memorandum and one copy to the hearing officer and one copy to the representative of each other party.

F. Witness and exhibit lists: Each party must file witness and exhibit lists at least 14 days before the date set for the hearing by mailing or delivering the original to the hearing officer and one copy to the representative of each other party. Witnesses must be identified with particularity. The party calling a witness must provide the witness's name and address and must describe the subject matter of the testimony expected to be elicited from each witness. Each document or object identified in the exhibit list must be immediately made available for inspection and copying. Only witnesses properly identified in the witness list will be permitted to testify in the hearing and only exhibits properly identified in the exhibit list will be admissible in the hearing unless upon good cause being shown the hearing officer determines otherwise.

[6.50.16.13 NMAC - Rp, 6.50.16.13 NMAC, 09/01/2014; A, 12/10/2024]

6.50.16.15 CONFLICTS: If an employee or official of an aggrieved member is on the authority board, that authority board member shall abstain from any participation, discussion, action or voting with respect to the petition for review. In the event an aggrieved authority employee files a petition for review [~~he or she~~ the employee shall abstain from any participation, discussion, action or communication with regard to the petition other than in [~~his or her~~ the employee's normal role as a petitioner.

[6.50.16.15 NMAC - Rp, 6.50.16.15 NMAC, 09/01/2014; A, 12/10/2024]