



Republic of the Philippines
Department of Finance
INSURANCE COMMISSION
1071 United Nations Avenue
Manila



INSURANCE MEMORANDUM
CIRCULAR NO. 2017-01

**RULES OF PROCEDURE FOR ADJUDICATION OF CASES AGAINST HEALTH
MAINTENANCE ORGANIZATIONS IN THE INSURANCE COMMISSION**

Pursuant to Section 4 of Executive Order No. 192, Series of 2015, which transferred the regulation and supervision of all Health Maintenance Organizations (HMOs) to the Insurance Commission (IC), the following Rules of Procedure for Adjudication of Cases against HMOs are hereby adopted and promulgated:

RULE I
TITLE AND CONSTRUCTION

SECTION 1. TITLE OF THE RULES. - These Rules shall be known as "The Rules of Procedure for Adjudication of Cases Against Health Maintenance Organizations in the Insurance Commission."

SECTION 2. CONSTRUCTION. - These Rules shall be liberally construed to carry out the objectives obtaining just, expeditious and inexpensive resolution and settlement of disputes.

SECTION 3. SUPPLETORY APPLICATION OF THE RULES OF COURT. - In the absence of any applicable provision in these Rules, the pertinent provisions of the Rules of Court of the Philippines may, in the interest of expeditious dispensation of justice and whenever practicable and convenient, be applied by analogy or in a suppletory character and effect.

RULE II
SCOPE AND JURISDICTION

SECTION 1. SCOPE AND JURISDICTION. - This Rules shall govern hearings of such claims and complaints where the issue/s pertain to membership issues or benefits and services issues with an HMO under an HMO agreement. Except as to the amount of actual damages, attorney's fees and costs, which include filing fees and litigation expenses, no other form of damages shall be recoverable.

This Rules will only apply for complaints filed by a member against an HMO. This Rules will not apply in disputes arising from the contractual relations between HMOs and affiliated hospitals, medical clinics, and physicians.

RULE III
DEFINITION OF TERMS

SECTION 1. *Definition of Terms.* - For purposes of this Rule:

- (a) *Complainant* refers to the member, whether a natural or juridical person, who initiated a complaint against an HMO doing business in the Philippines, for issues pertaining to membership with an HMO or denial of benefits and services under an HMO agreement;
- (b) *Respondent* is the HMO against whom the relief sought is directed;
- (c) *Person* is a natural individual, corporation, partnership, limited liability partnership, association, or other juridical entity endowed with personality by law;
- (d) *Health Maintenance Organization (HMO)* refers to a juridical entity legally organized to provide or arrange for the provision of pre-agreed or designated health care services to its enrolled members for a fixed pre-paid fee for a specified period of time.
- (e) *Member* refers to the principal and/or dependent who is eligible and has been accepted for membership by an HMO after complying with the Eligibility Provision and who is currently enrolled under an HMO agreement.
- (f) *Complaint* refers to a pleading alleging the cause or causes of action of the complainant. The names and addresses of all complainants and respondents must be stated in the complaint. It shall be verified under oath by the complainant with a certificate of non-forum shopping. A party having more than one cause of action against the respondent, arising out of the same HMO Agreement, shall include all of them in one complaint;
- (g) *Answer* refers to a pleading in which a respondent sets forth his defenses. It shall be verified under oath by the authorized representative of the respondent;
- (h) *Certificate to File Action* refers to a certification or any written document issued by the Public Assistance and Mediation Division certifying the fact that parties had undergone mediation and failed to reach an amicable settlement;
- (i) *Membership Issues* include, but are not limited to, any of the following:
 - 1. Eligibility for Enrollment;
 - 2. Cancellation of Membership;

3. Return of Membership Fees upon cancellation of membership;
4. Effective Date and Expiry Date of Membership; and
5. Membership Fees;

(j) *Benefits and Services Issues* include, but are not limited to, any of the following:

1. Determination if a particular injury, illness, disability, or defect is covered under an HMO Agreement;
2. Annual Benefit Limit;
3. Eligible Expenses;
4. Issuance/Non-Issuance of Letter of Authority;
5. Maximum Benefit Limit;
6. Medical Necessity; and
7. Room and Board Accommodation;

(k) *Commission* refers to the Insurance Commission and its District Offices;

(l) *Commissioner* refers to the Insurance Commissioner;

(m) *Hearing Officer* refers to a lawyer/s under the Claims Adjudication Division and the District Offices with the position of at least IC Attorney I; and

(n) *Doctor's Affidavit* refers to an affidavit executed by the attending physician or company physician, as the case may be, submitted by both parties in support of their respective position as to why a particular injury, illness, disability, or defect is covered or not covered under an HMO Agreement.

RULE IV PLEADINGS, NOTICES AND APPEARANCES

SECTION 1. PLEADINGS ALLOWED. - The only pleadings allowed to be filed are the complaints and the answers thereto which shall be verified under oath.

SECTION 2. CAPTION AND TITLE. - In all cases filed with the Commission, the party initiating the action shall be called the "Complainant" and the opposing party the "Respondent".

The full names of all the real parties in interest, whether natural or juridical persons or entities authorized by law, shall be stated in the caption of the complaint, as well as in the decisions, resolutions or orders of the Commission.

SECTION 3. FILING AND SERVICE OF PLEADINGS. - All pleadings in connection with a case shall be filed with the the Commission, as the case may be.

The party filing a pleading shall serve the opposing parties with a copy and its supporting documents. No pleading shall be considered without proof of service to the

opposing parties except if filed simultaneously during a schedule set before the Commission.

SECTION 4. SERVICE OF NOTICES, RESOLUTIONS, ORDERS AND DECISIONS. –

a) Notices and copies of resolutions or orders, shall be served upon the parties by registered mail or by private courier;

b) In case of decisions, copies thereof shall be served on both parties and their counsel or representative by registered mail or by private courier; Provided that, in cases where a party to a case or his/her counsel on record personally seeks service of the decision upon inquiry thereon, service to said party shall be deemed effected as herein provided. Where parties are numerous, service shall be made on counsel and upon such number of complainants, as may be practicable.

For purposes of appeal, the period shall be counted from receipt of such decisions, resolutions, or orders by the counsel or representative of record.

SECTION 5. APPEARANCES. –

a) A lawyer appearing for a party is presumed to be properly authorized for that purpose. In every case, he/she shall indicate in his/her pleadings and motions his/her Attorney's Roll Number, as well as his/her PTR and IBP numbers for the current year and MCLE compliance.

b) Appearances of a non- lawyer in contravention of this section shall not be recognized in any proceedings before this Commission.

c) Appearances may be made orally or in writing. In both cases, the complete name and office address of counsel or authorized representative shall be made of record and the adverse party or his counsel or authorized representative properly notified.

d) In case of change of address, the counsel or representative shall file a notice of such change, copy furnished the adverse party and counsel or representative, if any.

e) Any change or withdrawal of counsel or authorized representative shall be made in accordance with the Rules of Court.

SECTION 6. AUTHORITY TO BIND PARTY. - Counsel or other authorized representatives of parties shall have authority to bind their clients in all matters of procedure; but they cannot, without a Special Power of Attorney or express consent, enter into a compromise agreement with the opposing party in full or partial discharge of a client's claim.

RULE V
PROCEEDINGS BEFORE THE INSURANCE COMMISSION

SECTION 1. NATURE OF PROCEEDINGS. - The proceedings before the Commission shall be non-litigious in nature. Subject to the requirements of due process, the technicalities of law and procedure and the rules obtaining in the courts of law shall not strictly apply thereto. The Hearing Officer may avail himself/herself of all reasonable means to ascertain the facts of the controversy speedily, including ocular inspection and examination of well-informed persons.

SECTION 2. COMMENCEMENT OF ACTION. - An action shall commence upon the filing of a complaint verified under oath with a certificate of non-forum shopping, certificate to file action, and payment of docket fees.

If the complaint does not include the certificate to file action as defined under Section 1(h), Rule 3, the hearing officer of this Commission must endorse the complaint to the Public Assistance and Mediation Division of this Commission for the conduct of mediation, if none has been had, or the issuance of a certificate to file action, if mediation had already been conducted and terminated.

SECTION 3. DOCKET FEES. - Upon the filing of a complaint, the complainant shall pay a docket fee to be determined on the basis of the principal amount being claimed, exclusive of interest and attorney's fees as follows, to wit:

Principal Amount Being Claimed	Docket Fee
P100,000.00 and below	P1,000.00
More than P100,000.00 up to P200,000.00	2,000.00
More than P200,000.00 up to P300,000.00	3,000.00
More than P300,000.00 up to P400,000.00	4,000.00
More than P400,000.00 up to P500,000.00	5,000.00
More than P500,000.00 up to P600,000.00	6,000.00
More than P600,000.00 up to P700,000.00	7,000.00
More than P700,000.00 up to P800,000.00	8,000.00
More than P800,000.00 up to P900,000.00	9,000.00
More than P900,000.00 up to P1,000,000.00	10,000.00
More than P1,000,000.00 up to P2,000,000.00	15,000.00

More than P2,000,000.00 up to P3,000,000.00	20,000.00
More than P3,000,000.00 up to P4,000,000.00	25,000.00
More than P4,000,000.00 up to P5,000,000.00	30,000.00
More than P5,000,000.00	35,000.00

Plus an amount equivalent to one percent (1%) of the filing fee but in no case shall be less than Ten Pesos (P10.00) to be collected as Legal Research Fund Fee in accordance with Republic Act No. 3870, as amended by President Decree No. 1856, dated December 26, 1982.

SECTION 4. INDIGENT PARTY. – A party may be authorized to litigate his action as an indigent if the Commission, upon an ex parte application and hearing, is satisfied that the party is one who has no money or property sufficient and available for food, shelter, and basic necessities for himself and his family.

Such authority shall include an exemption from payment of docket and other lawful fees and of transcripts of stenographic notes. The amount of the docket and other lawful fees which was exempted shall be a lien on any judgment rendered in the case favorable to the indigent.

SECTION 5. DOCKETING OF COMPLAINT. – After payment of the docketing fee, the Commission shall enter the case in its docket book and a corresponding case number shall be inscribed in the complaint.

SECTION 6. ISSUANCE OF SUMMONS. – Within five (5) days from receipt of a complaint or amended complaint, the Hearing Officer shall issue the required summons, attaching thereto a copy of the complaint or amended complaint and its annexes, if any. The summons shall direct the respondent to file an answer within ten (10) days from receipt thereof.

SECTION 7. SERVICE OF SUMMONS. – Summons shall be served personally upon the parties by a duly authorized public officer or by registered mail/private courier within three (3) days from issuance thereof; Provided, that in special circumstances, service of summons may be effected in accordance with the pertinent provisions of the Rules of Court.

SECTION 8. ANSWER. – Within ten (10) days from service of summons, the respondent shall file his answer to the complaint and serve a copy thereof on the complainant. Affirmative and negative defenses not pleaded therein shall be deemed waived, except for lack of jurisdiction over the subject matter.

No Motion for Extension of Time to file an answer shall be allowed.

SECTION 9. EFFECT OF FAILURE TO ANSWER. - Should the respondent fail to answer the complaint within the period above provided, the Commission, motu proprio, or on motion of the complainant, shall render judgment as may be warranted by the facts alleged in the complaint and limited to what is prayed for therein: Provided, however, that the Commission may in its discretion reduce the amount of interests and attorney's fees claimed for being excessive or otherwise unconscionable.

SECTION 10. PROHIBITED PLEADINGS AND MOTIONS. - The following pleadings and motions shall not be allowed and acted upon:

- a) Motion to dismiss the complaint except on the ground of lack of jurisdiction over the subject matter, res judicata, prescription, extinguishment of liability by payment, and forum shopping;
- b) Motion for Extension of Time to File an Answer;
- c) Motion for a bill of particulars;
- d) Motion for new trial;
- e) Petition for Relief from Judgment;
- f) Motion to declare respondent in default;
- g) Motion for reconsideration of any decision or any order of the Hearing Officer;
- h) Appeal from any interlocutory order of the Hearing Officer, such as but not limited to, an order:
 - 1. denying a motion to dismiss;
 - 2. denying a motion to inhibit;
 - 3. denying a motion for issuance of writ of execution; or
 - 4. denying a motion to quash writ of execution;
- i) Appeal from orders issued by the Hearing Officer in the course of execution proceedings; and
- j) Such other pleadings, motions and petitions of similar nature intended to circumvent above provisions.

SECTION 11. MOTION TO DISMISS. - The respondent may file a motion to dismiss on grounds provided under Section 10, paragraph (a) hereof within the period of filing an

answer. Such motion shall be immediately resolved by the Hearing Officer through a written order. An order denying the motion to dismiss, or suspending its resolution until the final determination of the case, is not appealable.

SECTION 12. EFFECT OF FAILURE TO FILE MOTION TO DISMISS. - No motion to dismiss shall be allowed or entertained after the lapse of the period provided in Section 8 hereof.

SECTION 13. PRE-TRIAL CONFERENCE. – Not later than thirty (30) days after the last answer is filed, a Pre-Trial conference shall be held.

a) The pre-trial conference shall be called for the purpose of:

- (1) discussing the possibility of amicably settling the case upon a fair compromise;
- (2) determining the real parties in interest;
- (3) determining the necessity of amending the complaint and including all causes of action;
- (4) defining and simplifying the issues in the case;
- (5) entering into admissions or stipulations of facts;
- (6) marking of supporting documents and affidavits as evidence; and
- (7) threshing out all other preliminary matters. The Hearing Officer shall personally preside over and take full control of the proceedings.

SECTION 14. EFFECT OF FAILURE OF SETTLEMENT. – If the parties fail to agree on an amicable settlement, either in whole or in part, during the Pre-Trial Conference, the Hearing Officer shall proceed to the other purposes of the said conference as enumerated in Section 13(a) hereof.

SECTION 15. NON- APPEARANCE OF PARTIES. - The non- appearance of the complainant during the Pre-Trial Conference scheduled in the summons, despite due notice thereof, shall be a ground for the dismissal of the case without prejudice.

In case of non- appearance by the respondent, the Hearing Officer shall immediately terminate the Pre-Trial Conference and direct the complainant to file a verified position paper and submit evidence in support of his/her causes of action and thereupon render his/her decision on the basis of the evidence on record.

SECTION 16. SUBMISSION OF POSITION PAPER AND REPLY. – Within five (5) calendar days after the termination of the Pre-Trial Conference and no settlement or compromise agreement having been agreed upon by the parties, the Hearing Officer shall:

a) Direct the parties to submit simultaneously their verified position papers with supporting documents and affidavits marked during the mandatory conciliation and mediation conference, including the doctor's affidavit, on a date set by him/her within fifteen (15) calendar days from the date of termination of the mandatory conciliation and mediation conference.

b) No amendment of the complaint shall be allowed after the filing of position papers, unless with leave of the Hearing Officer.

c) The position papers of the parties shall cover only those claims and causes of action stated in the complaint or amended complaint, accompanied by all supporting documents, including the affidavits of doctors and other witnesses, which shall take the place of their direct testimony, excluding those that may have been amicably settled.

d) Within fifteen (15) days from receipt of the position paper of the adverse party, a reply may be filed on a date agreed upon and during a schedule set before the Hearing Officer. The reply shall not allege and/or prove facts and any cause or causes of action not referred to or included in the original or amended complaint or raised in the position paper.

SECTION 17. DETERMINATION OF NECESSITY OF HEARING OR CLARIFICATORY CONFERENCE. - Immediately after the submission by the parties of their position paper and reply, as the case may be, the Hearing Officer shall, motu proprio, determine whether there is a need for a hearing or clarificatory conference. At this stage, he/she may, at his/her discretion and for the purpose of making such determination, ask clarificatory questions to further elicit facts or information, including but not limited to the subpoena of relevant documentary evidence, if any, from any party or witness.

SECTION 18. ROLE OF THE HEARING OFFICER IN HEARING AND CLARIFICATORY CONFERENCE. - a) The Hearing Officer shall take full control and personally conduct the hearing or clarificatory conference and may ask questions for the purpose of clarifying points of law or facts involved in the case. The Hearing Officer may allow the presentation of testimonial evidence with right of cross- examination by the opposing party and shall limit the presentation of evidence to matters relevant to the issue before him/her and necessary for a just and speedy disposition of the case.

b) The Hearing Officer shall make a written summary of the proceedings, including the substance of the evidence presented, in consultation with the parties. The written summary shall be signed by the parties and shall form part of the records.

SECTION 19. NON- APPEARANCE OF PARTIES, AND POSTPONEMENT OF HEARINGS AND CLARIFICATORY CONFERENCES.

a) The parties and their counsels appearing before the Hearing Officer shall be prepared for continuous hearing or clarificatory conference. No postponement or continuance shall be allowed, except upon meritorious grounds and subject to the requirement of expeditious disposition of cases. The hearing or clarificatory conference

shall be terminated within thirty (30) calendar days from the date of the initial clarificatory conference.

b) In case of non- appearance of any of the parties during the hearing or clarificatory conference despite due notice, proceedings shall be conducted ex- parte. Thereafter, the case shall be deemed submitted for decision.

SECTION 20. SUBMISSION OF THE CASE FOR DECISION. - Upon the submission by the parties of their position papers or replies or objections to the recommendation of the medical consultant, or the lapse of the period to submit the same, the case shall be deemed submitted for decision unless the Hearing Officer calls for a hearing or clarificatory conference in accordance with Section 17 of this Rule, in which case, notice of hearing or clarificatory conference shall be immediately sent to the parties. Upon termination of the said hearing or conference, the case is deemed submitted for decision.

SECTION 21. PERIOD TO DECIDE THE CASE. - The Commission shall render its decision within sixty (60) working days, without extension, after the submission of the case by the parties for decision, even in the absence of stenographic notes.

SECTION 22. CONTENTS OF DECISIONS. - The decisions and orders of the Commission shall be clear and concise and shall include a brief statement of the: a) facts of the case; b) issues involved; c) applicable laws or rules; d) conclusions and the reasons therefor; and e) specific remedy or relief granted.

SECTION 23. FINALITY OF THE DECISION OR ORDER AND ISSUANCE OF CERTIFICATE OF FINALITY. -

(a) Any Decision or Order determining the merits of a case shall be in writing and signed by the Commissioner and a copy thereof shall be served upon the parties personally or by registered mail or private courier. The Decision or Order of the Commission shall become final and executory after the lapse of fifteen (15) days from the date of receipt of a copy thereof by the parties unless a motion for reconsideration or an appeal from such decision or order is filed within the period herein prescribed.

(b) Certificate of Finality. - Upon expiration of the period provided in paragraph (a) of this Section, the Commission may issue a certificate of finality upon written request made by any of the parties to the case.

RULE VI

MOTION FOR RECONSIDERATION

SECTION 1. MOTION FOR RECONSIDERATION. - Within fifteen (15) calendar days from receipt of the decision or order of this Commission, the aggrieved party may be allowed to file a motion for reconsideration of such order, ruling or decision upon

payment of P500.00. If the motion is denied, the movant may appeal in accordance with Section 1 of Rule VII hereof. No second motion for reconsideration shall be allowed.

SECTION 2. OPPOSITION TO MOTION FOR RECONSIDERATION. – Within fifteen (15) calendar days from receipt of the Motion for Reconsideration, the opposing party may file his/her opposition thereto and serve a copy upon the movant.

SECTION 3. WHEN DEEMED SUBMITTED FOR RESOLUTION. – After the opposition is filed, or at the expiration of the period for filing the same without any such opposition having been filed, the motion for reconsideration shall be deemed submitted for resolution by the Commission, unless the Commission shall consider it necessary to hear the oral arguments of the parties, in which case the Commission shall issue a corresponding order or notice to that effect.

RULE VII APPEAL

SECTION 1. HOW APPEAL IS TAKEN. – Any party affected by a final order, ruling, or decision of this Commission may, within fifteen (15) days from notice of such order or decision, file a verified petition for review in seven (7) legible copies with the Court of Appeals, a copy of which shall be served on the Commission and on the adverse party, in accordance with Rule 43 of the Rules of Court. Proof of service of the petition to the Commission and on the adverse party shall be attached to the petition.

SECTION 2. CONTENTS OF PETITION. – The petition for review shall contain a concise statement of the facts and issues involved and the grounds relied upon for review, and shall be accompanied by a duplicate original or certified true copy of the ruling, award, order, decision, or judgment appealed from, together with certified true copies of such material portions of the record as are referred to therein and other supporting papers. The petition shall state the specific material dates showing that it was filed within the period required.

SECTION 3. EFFECT OF APPEAL. – The appeal shall not stay the award, judgment, final order or resolution sought to be reviewed unless the Court of Appeals shall direct otherwise upon such terms as it may deem just.

RULE VIII CONTEMPT

SECTION 1. DIRECT CONTEMPT. – The Commissioner or any Hearing Officer authorized to conduct hearing or proceedings may summarily adjudge in direct contempt any person who has committed or is committing any act of misbehavior in his presence and while the proceedings is on going, including disrespect towards him, offensive personalities towards others, or refusal to be sworn or to answer as a witness or to subscribe an affidavit or deposition when lawfully required to do so. If the offense

is committed against the Commissioner, the same shall be punished by a fine not exceeding Two Thousand Pesos (P2,000.000) However, if the offense is committed against any hearing officer, the same shall be punished by a fine not exceeding One Thousand Pesos (P1,000.000).

SECTION 2. REMEDY. – The person adjudged in direct contempt may not appeal therefrom but may avail himself of the remedies of certiorari or prohibition. The execution of the judgment shall be suspended pending resolution of such petition, provided such person filed a bond fixed by the Commission on the condition that he will abide by and perform the judgment should the petition be decided against him.

SECTION 3. INDIRECT CONTEMPT. – The Commissioner or Hearing Officer may also cite any person for indirect contempt upon grounds and in the manner prescribed under Rule 71 of the Rules of Court.

RULE VIII EXECUTION PROCEEDINGS

SECTION 1. EXECUTION UPON FINALITY OF DECISION OR ORDER. - a) A writ of execution may be issued motu proprio or on motion, upon a decision or order that has become final and executory.

b) If an appeal has been duly perfected and finally resolved by the Court of Appeals, a motion for execution may be filed before the Commission upon submission of certified true copies of the decisions or final order/s sought to be enforced including notice of decision or order and the entry of judgment, copy furnished the adverse party.

SECTION 2. PRE- EXECUTION CONFERENCE. - Within ten (10) working days from receipt of a motion for the issuance of a writ of execution which shall be accompanied by a computation of a judgment award, if necessary, the Commission may schedule a pre- execution conference to thresh out matters relevant to execution including the final computation of monetary award.

Any order issued by the Hearing Officer in the pre- execution conference is not appealable.

SECTION 3. ISSUANCE, CONTENTS AND EFFECTIVITY OF A WRIT OF EXECUTION. - The writ of execution shall issue in the name of the Republic of the Philippines signed by the Commission ordering a duly authorized public officer to execute the decision, order, or award of the Commission and must contain the complete name of the party, whether natural or juridical, against whom the writ of execution was issued, the dispositive portion thereof, the amount, if any, to be demanded, and all legal fees to be collected from the losing party or any other person required by law to obey the same.


A writ of execution shall be effective for a period of five (5) years from issuance thereof. In case of partial satisfaction of judgment during the lifetime of the writ, the Commission shall motu proprio issue an updated writ reflecting the amount collected and the remaining balance.

SECTION 4. ENFORCEMENT OF WRIT OF EXECUTION. - In executing a decision, resolution or order, the duly authorized public officer acting as Sheriff of the Commission, shall serve the writ within five (5) days from receipt of the same and shall be guided strictly by the applicable rules under the Rules of Court, as amended.

RULE IX EFFECTIVITY AND SEPARABILITY CLAUSE

SECTION 1. SEPARABILITY CLAUSE. - If any provision of this Rules of Procedure or any part hereof be declared invalid or unconstitutional, the remainder of the law or other provisions not otherwise affected shall remain valid and subsisting.

SECTION 2. EFFECTIVITY. - This Rules of Procedure shall be published in any of the top three (3) major broadsheet newspapers circulated nationwide and shall take effect on March 1, 2018.


DENNIS B. FUNA
Insurance Commissioner

