

October 16, 2006

## VHA CLINICAL APPEALS

**1. PURPOSE:** This Veterans Health Administration (VHA) Directive defines the mechanism for both internal and external clinical appeals.

### 2. BACKGROUND

a. In 1991, VHA issued a Directive mandating that all medical centers operate a Patient Advocate Program to address patient inquiries and complaints. In Fiscal Year (FY) 1999, in response to Eligibility Reform and the implementation of an enrollment system with the provision of a fixed benefits package, VHA initiated a review of how clinical disputes were being handled throughout the system. As an outgrowth of that review, in FY 2000, VHA instituted an External Appeal system, which allows Veterans Integrated Service Networks (VISNs) to request prompt, impartial reviews of clinical determination decisions by a professional board external to the agency. As an additional development, this Directive addresses the handling of clinical appeals internal to the agency, with the goal of creating a more efficient and consistent system that incorporates VISN-based management into the reviews and associated veteran customer service improvement activities.

b. It is designed to establish policies, responsibilities, and procedures for handling of patient issues and/or concerns when an impasse occurs between a patient, or the patient's representative, and a health care facility pertaining to the following:

(1) Provision of clinical care that potentially could result in a different and/or improved clinical outcome for the veteran.

(2) Denial of clinical care that potentially could result in a different and/or improved clinical outcome for the veteran.

**3. POLICY:** It is VHA policy that patients or their representatives must have access to a fair and impartial review of disputes regarding clinical determinations or services that are not resolved at the facility level. **NOTE:** *This supports the vital concept that patients are to be actively involved in all aspects of care that influence clinical outcomes, including decisions regarding referrals, transfers, discharge planning, and other factors which influence the clinical outcomes of care.*

### 4. ACTION

a. **Facility Director.** The facility Director is responsible for:

(1) Attempting to resolve clinical disputes. VHA health care facilities are the first point of contact for disputes and every effort is to be made to resolve disputes as close to the point of care as possible.

(2) Providing written notification of the facility's final determination to the patient, or the patient's representatives. This notification must describe the VISN clinical appeals process (see Att. A).

**THIS VHA DIRECTIVE EXPIRES OCTOBER 31, 2011**

## VHA DIRECTIVE 2006-057

October 16, 2006

b. **The Veterans Integrated Service Network (VISN) Director.** The VISN Director, or designee, is responsible for:

(1) Administering an internal clinical appeals process regarding clinical determinations or services that are not resolved at the facility level. **NOTE:** *The VISN Director must ensure that the process at each level provides for a fair and impartial review.*

(2) Reviewing clinical appeals and providing a decision to the patient within 30 days after receipt of the appeal request. That time frame may be extended to 45 days, should the VISN request an external clinical review (see subpar. 4b(4)(c)). VHA facilities and VISNs render decisions that are founded on national evidence-based standards. Where there is an absence of a national evidence-based standard for treatment, the local community standard prevails. **NOTE:** *VHA operates an external clinical review program that allows for independent review and recommendation regarding clinical appeals by a professional board external to the Agency. VISNs have the authority to request an external review at any time during the clinical appeals process, prior to rendering a final decision.*

(3) Having written policy and procedures in place for how internal clinical appeals are to be handled, including identification of roles and responsibilities, time frames, and requirements for data entry into the national computerized Patient Complaint database.

(4) Conducting a preliminary review upon receipt of a clinical appeal from the patient, or the patient's representative in order to determine whether the:

(a) Patient can be maintained safely in the current environment of care. If it is determined that the patient cannot be safely maintained in the current environment of care, the VISN must arrange for immediate transfer of the patient to an appropriate setting.

(b) The medical facility had an opportunity to formally address the issue. If the facility has not attempted resolution, the request for review is forwarded back to the facility Director.

(c) Dispute is an appropriate case for the VISN clinical appeals process. **NOTE:** *Issues that fall outside the scope of the VISN clinical appeal process (i.e., administrative disputes, other complaints) are referred to the appropriate office or location. This Directive does not impact other appeals processes available to veterans, specifically the reconsideration process and appeals to the Veterans Benefits Administration.*

(5) Requesting documentation and supporting arguments from both the facility and the patient, or as appropriate, the patient's representative once a clinical dispute is accepted as an internal clinical appeal. The VISN either independently reviews the documentation or convenes an impartial VISN clinical panel to review the documentation and make a recommendation. **NOTE:** *The VISN can request an independent external review at any time during the process.*

(6) When an independent external review is requested, the clinical record, the statement of appeal, and other relevant documentation and/or information produced by any internal review, must be forwarded to the Office of Quality and Performance (OQP). Upon receipt, OQP arranges for the external review through its contractor for the external peer review program. The

contractor reviews the clinical record and all accompanying documentation, as well as any evidence regarding the relevant practice described in the literature, to determine whether appropriate and/or reasonable and necessary clinical service was provided and/or denied. A final written report, fully documenting the findings and recommendations of the reviewer(s), is provided to the VISN Director within 10 days of the receipt of the full documentation request.

(7) Rendering a written final decision to the patient, or the patient's representative, and the medical facility Director within 30 days after initial receipt of the clinical appeal (see Att. B and Att. C). **NOTE:** *The time frame for final decision may be extended to 45 days for those clinical appeals undergoing external review.*

(8) Ensuring that the Patient Advocate at the facility enters the clinical appeals into the national computerized Patient Complaint database where the appeal was originated. All details and decisions must be included in the final documentation before the case is closed.

c. **Office of Quality and Performance.** The Office of Quality and Performance Director is responsible for administering VHA's external clinical appeals program using an outside vendor. OQP must ensure that all requests for external review are conducted in a timely and efficient manner.

d. **National Veteran Service and Advocacy Program, VHA Support Service Center.** The National Veteran Service and Advocacy Program Director, VHA Support Service Center, is responsible for providing support for the national computerized Patient Complaint database. **NOTE:** *The national computerized Patient Complaint database is to be used for documenting clinical appeals and producing reports for the tracking and trending of issues.*

5. **REFERENCES:** None.

6. **FOLLOW-UP RESPONSIBILITY:** The Office of the Deputy Under Secretary for Health for Operations and Management (10N) is responsible for the contents of this Directive. Questions may be referred to the Director, National Veteran Service and Advocacy Program at 518-626-5673.

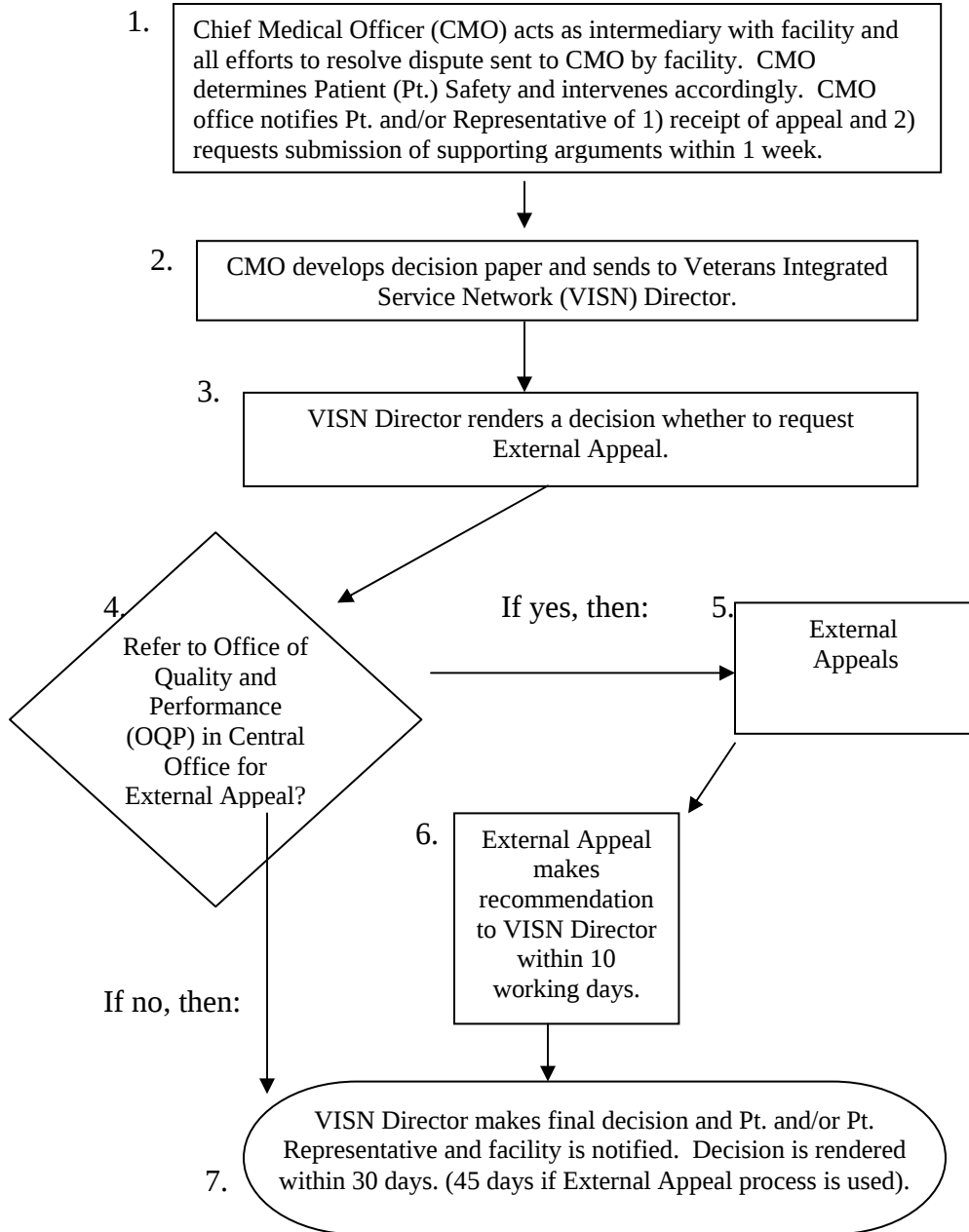
7. **RESCISSIONS:** VHA Directive 2001-033 is rescinded. This VHA Directive expires October 31, 2011.

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Acting Under Secretary for Health

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ATTACHMENT A

SAMPLE CLINICAL APPEALS PROCESS



**ATTACHMENT B**

**SAMPLE EXECUTIVE DECISION MEMO**

**FACILITY:**

**TO:** Veterans Integrated Service Network (VISN) Director (10N\_\_\_)

**THRU:**

**FROM:** Chief Medical Officer ( )

**SUBJ:**

**PREPARED BY:**

**1. For Further Information Contact:**

- 2. Action Requested:** \_\_\_\_\_ Request for approval  
\_\_\_\_\_ Request for discussion or further review  
\_\_\_\_\_ For your Information  
\_\_\_\_\_ Other (specify)

**3. Statement Of Issue:** A concise statement of the issue, circumstance, or situation that needs to be addressed or resolved.

**4. RECOMMENDATION:** A succinct statement of what action is being recommended to address or resolve the issue.

**APPROVED/DISAPPROVED**

\_\_\_\_\_

\_\_\_\_\_  
Name of VISN Director  
(Date)

VISN Director, VISN \_\_\_\_\_

ATTACHMENT C

**SAMPLE CONSIDERATIONS FOR DECISION-MAKING MEMORANDUM**

- 1. STATEMENT OF ISSUE:** A concise statement of the issue, circumstance, or situation that needs to be addressed or resolved.
- 2. SUMMARY OF FACTS AND/OR BACKGROUND:** A succinct discussion, or review, of the relevant facts or circumstances bearing on the issue (one to three paragraphs).
- 3. SYNOPSIS OF SIGNIFICANT RELATED ISSUES:** A statement of any related or peripheral issues not covered in Consideration Item #2 that also should be considered (one to three paragraphs).
- 4. CRITERIA FOR DECISION-MAKING:** A listing of all significant criteria upon which the options for addressing the issue will be judged, pro or con. ***NOTE:** This section is to specify precisely the basis for making the decision.*
- 5. STAKEHOLDER INVOLVEMENT:** A brief description of all parties involved (i.e., internal and external stakeholders) and what process was used to develop the decision criteria and options.
- 6. OPTIONS AND ARGUMENTS:** A listing of the various options for actions that could be taken to address or resolve the issue or situation, and the arguments for and against each.

**Option 1:**

**Arguments Pro:**

**Arguments Con:**

**Option 2:**

**Arguments Pro:**

**Arguments Con:**

- 7. RECOMMENDED OPTION:** A succinct statement of what action is being recommended to address or resolve the issue.
- 8. DISSENTING OPINIONS REGARDING RECOMMENDED OPTION:** When the recommended option is the result of a committee or group process, then major dissenting views or minority opinions need to be noted as well.

**October 16, 2006**

**9. EFFECT OF RECOMMENDED OPTION ON EXISTING PROGRAMS AND/OR**

**FACILITIES:** An assessment of the effect of the recommended action on existing programs or facilities.

**10. LEGAL OR LEGISLATIVE CONSIDERATIONS OF THE RECOMMENDED OPTION:**

A brief discussion of any legal or legislative issues, concerns, or considerations stemming from the recommended action.

**11. BUDGET OR FINANCIAL CONSIDERATIONS OF THE RECOMMENDED OPTION:**

A discussion of any costs and/or financial or budgetary effects of the recommended action including the present availability of any needed resources. **NOTE:** *No decision will be based solely on budgetary effects.*

**12. PUBLIC RELATIONS OR MEDIA CONSIDERATIONS OF THE RECOMMENDED**

**OPTION:** A discussion of any potential public relations or media problems, opportunities, etc., raised by the recommended action.

**13. CONGRESSIONAL OR OTHER PUBLIC OFFICIAL OR AGENCY CONSIDERATIONS**

**OF THE RECOMMENDED OPTION:** A discussion of any congressional and/or other public official/agency notification or involvement considerations raised by the recommended action.

**14. IMPLEMENTATION:** A brief discussion of the timing, sequence, and implementation of the recommended action, including major implementation milestones. The proposed lead office or lead person and support office need to be clearly identified. Likewise, any anticipated obstacles must be noted.

**15. LESSONS LEARNED:** A brief discussion of any lessons learned stemming from either the issue, or the way the issue was handled at any point along the continuum.