§ 14170.5. Special claims review period

(a) No provider's claims for reimbursement under this chapter shall be subject to any special claims review procedure for a period in excess of nine months unless the department shows cause why the provider's claims for reimbursement should continue to be subject to special claims review procedures.

(b) The department shall provide notice to a provider of its reasons for determining that the provider shall be subject to extended special claims review.

(Added by Stats.1987, c. 608, § 1.)

§ 14171. Findings of audit or examination; administrative appeal processes for tentative or final settlements; informal conferences; time limitations; final decision; interest

(a) The director shall establish administrative appeal processes to review grievances or complaints arising from the findings of an audit or examination made pursuant to Sections 10722 and 14170.

(b) Different administrative appeal processes may be established by the director for grievances or complaints arising from the determinations of a tentative or final settlement based on audit or examination findings made by or on behalf of the department pursuant to Sections 10722 and 14170, except that consistent with existing practice, no administrative appeal shall be available for tentative settlement of cost reports.

(c) The administrative appeal process established by the director for final settlements, including, in the case of hospitals, the application of Sections 51536, 51537, and 51539 of Title 22 of the California Code of Regulations shall include the procedural requirements of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The impartial hearing shall be conducted by an administrative law judge appointed by the director. The director may subcontract with the Office of Administrative Hearings to conduct hearings on cases involving complicated issues of fact or law, or to reduce the backlog of cases.

(d) The administrative appeal process established by the director for tentative settlements, including, in the case of hospitals, the application of Sections 51536, 51537, and 51539 of Title 22 of the California Code of Regulations shall be an informal process which, however, guarantees a provider the right to present any grievance or complaint to the department in writing. Any subsequent hearings shall be conducted in an informal manner and shall be held at the discretion of the department.

(e) The time limitations in subdivisions (f) and (g) for the impartial hearing and the final decisions are mandatory. If the department fails to conduct the hearing or to adopt a final decision thereon within the time limitations provided in subdivisions (f) and (g), the amount of any overpayment which is
ultimately determined by the department to be due shall be reduced by 10 percent for each 30-day period, or portion thereof, that the hearing or the decision, or both, are delayed beyond the time limitations provided in subdivisions (f) and (g). However, the time period shall be extended by either of the following:

(1) Delay caused by a provider.

(2) Extensions of time granted a provider at its sole request or at the joint request of the provider and the department.

(f)(1) Notwithstanding subdivision (c), the administrative appeal process established by the director shall commence with an informal conference with the provider, a representative of the department, and the administrative law judge. The informal conference shall be conducted no later than 90 days after the filing of a timely and specific statement of disputed issues by the provider. The administrative law judge, when appropriate, may assign the administrative appeal to an informal level of review where efforts could be made to resolve facts and issues in dispute in a fair and equitable manner, subject to the requirements of state and federal law. The review conducted at this informal level shall be completed no later than 180 days after the filing of a timely and specific statement of disputed issues by the provider.

(2) Nothing in this subdivision shall prohibit the provider from presenting any unresolved grievances or complaints at an impartial hearing pursuant to subdivision (c). The impartial hearing shall be conducted no later than 300 days after the filing of a timely and specific statement of disputed issues by the provider. For noninstitutional providers, a proposed decision shall be prepared and transmitted to the director and the parties within 60 days after the closure of the record of the impartial hearing. For institutional providers, a proposed decision shall be prepared and transmitted to the director and the parties within 180 days after the closure of the record of the impartial hearing.

(3) Subject to subdivision (g), a final decision in a noninstitutional provider appeal shall be adopted within 180 days after the closure of the record of the impartial hearing, and a final decision in an institutional provider appeal shall be adopted within 300 days after the closure of the record of the impartial hearing.

(g) In the event the director intends to modify a proposed decision, on or before the 180th day following the closure of the record of the hearing for noninstitutional providers or the 300th day following the closure of the record of the hearing for institutional providers, the director shall provide written notice of his or her intention to the parties and shall afford the parties an opportunity to present oral and written argument. Following this notice, on or before the 240th day following the closure of the record of the hearing for noninstitutional providers or the 420th day following closure of the record of the hearing for institutional providers, or within that additional time period as is granted pursuant to the sole request of a provider or at the joint request of the provider and the department, the director shall issue a modified decision.
(h) In the event recovery of a disallowed payment has been made by the department, a provider who prevails in an appeal of a disallowed payment shall be entitled to interest at the rate equal to the monthly average received on investments in the Surplus Money Investment Fund, commencing on the date the appeal is formally accepted by the department or the date payment is received by the department, whichever is later.

(i) Commencing 60 days after issuance of the first statement of account status or demand for repayment resulting from an audit or examination made pursuant to Sections 10722 and 14170, interest at the rate equal to the monthly average received on investments in the Surplus Money Investment Fund during the month the first statement of account status or demand for repayment was issued shall be assessed against any unrecovered overpayment due to the department.

(j) The final decision of the director shall be reviewable in accordance with Section 1094.5 of the Code of Civil Procedure within six months of the issuance of the director's final decision.

(f) Notwithstanding subdivision (c), the administrative appeal process established by the director for institutional providers at final settlements shall commence with an informal conference with the provider, a representative of the department and the hearing officer. The hearing officer, when appropriate, may assign the administrative appeal to an informal level of review where efforts could be made to resolve facts and issues in dispute in a fair and equitable manner, subject to the requirements of state and federal law. Nothing in this subdivision shall prohibit the provider from presenting any unresolved grievances or complaints at an impartial hearing pursuant to subdivision (c).

(g) Notwithstanding subdivision (c), the administrative appeal process established by the director for noninstitutional providers shall commence with an informal conference with the provider, a representative of the department, and the hearing officer. The informal conference shall be conducted no later than 90 days after the filing of a timely and specific statement of disputed issues by the noninstitutional provider. The administrative law judge, when appropriate, may assign the administrative appeal to an informal level of review where efforts could be made to resolve facts and issues in dispute in a fair and equitable manner, subject to the requirements of state and federal law. The review conducted at this informal level shall be completed no later than 180 days after the filing of a timely and specific statement of disputed issues by the noninstitutional provider. Nothing in this subdivision shall prohibit the provider from presenting any unresolved grievances or complaints at an impartial hearing pursuant to subdivision (c). For noninstitutional providers, the impartial hearing shall be conducted no later than 360 days after the issuance of the first statement of account status or demand for payment to the noninstitutional provider. A proposed decision shall be prepared within 60 days after the impartial hearing is concluded, and a final decision shall be adopted within 180 days of the hearing.

Cross References
Office of administrative hearings, see Government Code § 11370 et seq.
Review of administrative orders or decisions, see Code of Civil Procedure § 1094.5.

Code of Regulations References
Provider audit appeals, see 22 Cal. Code of Regs. 51016 et seq.

Library References
WESTLAW Topic No. 356A.

375

TN No. 96-011
Supersedes
TN No. 95-017

Approval Date 6/15/94 Effective Date August 1, 1995
Article 1.5. Provider Audit Appeals

§ 51016. Definitions.

(1) The following definitions shall be used throughout this article unless otherwise noted.

(1a) Audit or Examination Report, "Audit or examination report" means a document that presents the final audit or examination findings and is formally issued to the provider by the Department upon the completion of the audit or examination.

(2) Completed Audit or Examination, "Completed audit or examination" means an audit or examination for which an audit or examination report has been issued.

(3) Date of mailing means the date postmarked on the envelopes if postage was prepaid and the envelopes were properly addressed.

(4) Demand for Repayment, Demand for repayment means a written notice served on the provider by the Department that identifies the amount of the overpayment, determined by an audit or examination, that must be repaid. The notice may be made through the issuance of a statement of noncompliance, assessment of a sanction, liquidation, or any combination of the foregoing.

(5) Duplexed, "Duplexed" means a counterpart or facsimile copy of the original produced by the same impressions or from the same matrix as the original or by some techniques of accurate reproduction.

(6) "Excess" means an informal meeting between the provider and the Department representatives responsible for the audit or examination, at which the preliminary findings of the audit or examination are discussed.

(7) Formal Hearing, "Formal hearing" means an administrative hearing conducted by a hearing officer pursuant to Section 14171(b). Welfare and Institutions Code, and the provisions of this article.

(8) Hearing Officer, "Hearing officer" means an individual designated to conduct the informal level of review.

(9) Hearing Officer, "Hearing officer" means a hearing officer appointed by the Director pursuant to Section 14171(b). Welfare and Institutions Code.

(10) Informal Conference, "Informal conference" means a proceeding conducted in person or by telephone, for the purpose of scheduling the informal level of review and formal hearing, exchanging documents; and resolving other preliminary matters.

(11) Informal Level of Review, "Informal level of review" means an informal hearing for non-participating providers and a pre-litigation conference for non-participating providers, held by the hearing officer or hearing officer-appointed to a formal hearing upon request of the provider.

(12) Party, "Party" means the provider, the Department, and any person, other than a hearing officer, allowed to appear in the proceedings.

(13) Participating Provider, "Participating provider" means any of the following:

(a) Any non-participating, entity or organization of a type required to be licensed pursuant to Chapter 1 (commencing with Section 1500) of Title 2, Health and Safety Code, or exempt from license pursuant to Section 15061 of Title 2, Health and Safety Code which provides services to suppliers under the Medi-Cal program, and is subject to audit by the Department.

(b) Any individual, entity, or organization of a type required to file a cost report or cost information with the Department.

(c) Non-participating Providers, "Non-participating provider" means any individual, entity, or organization other than those defined in subsection (b) who provides services or supplies under the Medi-Cal program, and who is subject to audit by the Department.

(13) File, "File" means delivery of a pleading or other paper on, and its date stamping by, the Office of Administrative Hearings and Appeals, Office of Legal Services, Department of Health Services.

(14) Serve, "Serve" means the delivery of a pleading or other paper on a party in the manner provided by Government Code Section 11005(e).

(15) Note, "Note" means written notice of an audit or examination report to one or more persons.

§ 51017. Provider Audit Hearing.

A provider may request a hearing under the provisions of this article to examine any disputed audit or examination finding which results in an adjustment to Medi-Cal program reimbursement or reimbursement rates by submitting a Statement of Disputed Issues to the Department in accordance with Section 51022.


Hearings shall be held within 15 days of the date of mailing.

§ 51018. Home Offices—Chain Organization Related Entities.

The home office of a chain organization has no separate right to an individual hearing under this article. When a provider in a chain organization disputes an audit or examination finding concerning the allocation of home office costs, other related entity costs, or any other manner affecting all or some of the providers in the chain organization, all providers in the chain organization that are affected by the issues in dispute shall be made parties to the proceedings for the purpose of resolution of that issue only, in accordance with Section 51030.


§ 51019. Amandated Cost Reports.

(a) An amended cost report may be submitted by a provider and accepted by the Department for the fiscal period or periods for which proceedings are pending under this article.

(b) The hearing officer may suspend the proceedings prior to identification of any additional disputes that may result from an amended report filed by a provider.

(c) Additional issues which are raised by accepted cost report amendments may be included in the proceedings at the request of the provider.

(d) The hearing officer shall decide the proceeding without prejudice to the right to request a new or separate hearing under this article when the hearing officer determines that clarity to the proceedings.


Attachment 4.19-D

Page 5
§ 51070. Amended Audit Report.
(a) An amended audit report may be issued by or on behalf of the Depart-
ment for the fiscal period or periods for which proceedings are pend-
ing under this article.
(b) The hearing officer may suspend the proceedings until identifica-
tion of any additional disputes that may result from an amended audit re-
port.
(c) Additional issues in dispute which are raised by the amended audit
report may be included in the proceedings at the request of the provider
in accordance with Section 51022.

(THE NEXT PAGE IS 397.)

Page 396.4

Attachment 4.19-D
Appendix 2
Page 6

TN.95-017
Supersedes
TN.92-012
Approval Date 10/1/98
Effective Date August 1, 1995
(1) The hearing officer may dismiss the proceeding without prejudice to the parties to request a subsequent hearing under this article when the hearing officer determines that a course is appropriate.

(2) The provision of the present paragraph, and the amendment, in particular, are intended to be consistent with the procedures for conducting hearings as set forth in the Administrative Procedure Act and as set forth in that Act, and with the provisions of the Federal Rules of Evidence and the Federal Rules of Civil Procedure.

§ 51021. Evidentiary and Conference Audiographic Record (a) The provider shall be afforded a reasonable opportunity to participate in an evidentiary conference after the conclusion of any field audit or examination of records or reports of a provider, by or on behalf of the Department, and prior to the issuance of the Audit Report. The purpose of the evidentiary conference is to:

1. Inform the provider of the audit or examination findings and the supporting reasons and evidence.

2. Inform the provider of the specific instances in which no records were found to substantiate claims billed to the program which was the subject of the audit or examination.

3. Allow the provider an opportunity to present relevant information concerning the audit or examination findings.

(b) The provider may not be required to appear at the evidentiary conference, any records which were identified as unavailable for review or missing within 13 calendar days of the evidentiary conference shall not be included in the Audit Report.

(c) Where the audit or examination involves the records or reports of a provider of pharmaceutical services:

1. The auditor or reviewer shall identify missing prescriptions by beneficiary name, pharmacy name, prescription number, date of service to the provider at such conference.

2. The audit on behalf of the provider, pursuant to submission of missing prescription to subsection (b), in the event that a request for repayment is made.

3. An audit of the evidentiary conference findings issued by or on behalf of the Department shall include the following:

1. A complete copy of the audit report which identifies all items in which documentation has been found to be missing or the amount of each item and the reason for the exception, including citation to the appropriate statutory or regulatory authority.

2. Notice of the provider's right to a hearing pursuant to the provisions of this article. A copy of the provisions of this article shall accompany such notice.

NOTE: This article is not intended to be consistent with the provisions of the Federal Rules of Evidence and the Federal Rules of Civil Procedure.

Appendix 2

Page 77

(a) As an alternative to judicial review pursuant to Welfare and Institutions Code Sections 4067.21(e), an administrative review of disputes between a contracting hospital and the state relating to performance under the Selective Provider Contracting Program shall be heard by an independent hearing examiner appointed by the Director of the Department of Health Services.

(b) The independent hearing examiner shall conduct an administrative hearing and make a proposed decision to be adopted by the Director pursuant to the applicable procedural requirements of Article 1.5, Provider Audit Appeals (Sections 31090-31047) with the following exceptions:

(1) The request for a hearing shall be made in writing.

(2) The request must be made within 30 days of the receipt of the notice of determination.

(3) The hearing examiner shall be independent and impartial.

(4) The hearing shall be conducted in accordance with the requirements of the procedures contained in the Selective Provider Contracting Program.

(5) The hearing examiner shall issue a written decision within 30 days of the hearing.

(6) The decision of the hearing examiner shall be final and nonappealable.

(7) If the provider disagrees with the decision of the hearing examiner, the provider may appeal to the Supreme Court of California within 30 days of the issuance of the decision.

(8) If the provider disagrees with the decision of the hearing examiner, the provider may appeal to the Superior Court of California within 30 days of the issuance of the decision.

(9) If the provider disagrees with the decision of the hearing examiner, the provider may appeal to the State of California within 30 days of the issuance of the decision.

(10) If the provider disagrees with the decision of the hearing examiner, the provider may appeal to the United States Court of Appeals within 30 days of the issuance of the decision.

(11) If the provider disagrees with the decision of the hearing examiner, the provider may appeal to the United States Supreme Court within 30 days of the issuance of the decision.

§ 51048.3. Request for Reconsideration.

(a) If a provider requests reconsideration of the hearing examiner's decision, the request shall be made in writing.

(b) The request must be made within 30 days of the receipt of the notice of determination.

(c) The request must be supported by evidence and a statement of the reasons for the request.

(d) The request must be filed with the Director of the Department of Health Services at the address specified in Section 51048.2.

(e) The request must be filed within 30 days of the receipt of the notice of determination.

(f) The request must be filed within 30 days of the receipt of the notice of determination.

(g) The request must be filed within 30 days of the receipt of the notice of determination.

(h) The request must be filed within 30 days of the receipt of the notice of determination.

(i) The request must be filed within 30 days of the receipt of the notice of determination.

(j) The request must be filed within 30 days of the receipt of the notice of determination.

(k) The request must be filed within 30 days of the receipt of the notice of determination.

(l) The request must be filed within 30 days of the receipt of the notice of determination.

(m) The request must be filed within 30 days of the receipt of the notice of determination.

(n) The request must be filed within 30 days of the receipt of the notice of determination.

(o) The request must be filed within 30 days of the receipt of the notice of determination.

(p) The request must be filed within 30 days of the receipt of the notice of determination.

(q) The request must be filed within 30 days of the receipt of the notice of determination.

(r) The request must be filed within 30 days of the receipt of the notice of determination.

(s) The request must be filed within 30 days of the receipt of the notice of determination.

(t) The request must be filed within 30 days of the receipt of the notice of determination.

(u) The request must be filed within 30 days of the receipt of the notice of determination.

(v) The request must be filed within 30 days of the receipt of the notice of determination.

(w) The request must be filed within 30 days of the receipt of the notice of determination.

(x) The request must be filed within 30 days of the receipt of the notice of determination.

(y) The request must be filed within 30 days of the receipt of the notice of determination.

(z) The request must be filed within 30 days of the receipt of the notice of determination.

A-19-D

Appendix 2

Page 8
Health Care Services § 51047

TN.95-017
Supersedes
TN.92-2-2

Approval Date 4/1/93

Effective Date August 1, 1995
(a) The hearing officer shall give official notice of the dates and times on which the hearing is to be held.
(b) The hearing officer shall give official notice of the dates and times on which the hearing is to be held.
(c) The hearing officer shall give official notice of the dates and times on which the hearing is to be held.
(d) The hearing officer shall give official notice of the dates and times on which the hearing is to be held.

§ 51043. Continued or Further Hearings.
(a) A hearing officer may continue a formal hearing to another time and place if it is determined that the public interest would be served by continuing the hearing.
(b) The hearing officer may continue a formal hearing to another time and place if it is determined that the public interest would be served by continuing the hearing.
(c) The hearing officer may continue a formal hearing to another time and place if it is determined that the public interest would be served by continuing the hearing.
(d) The hearing officer may continue a formal hearing to another time and place if it is determined that the public interest would be served by continuing the hearing.

§ 51043. Oral Argument and Briefs.
(a) The hearing officer shall grant oral and written argument on the request of any party or upon request of the hearing officer.
(b) The hearing officer shall grant oral and written argument on the request of any party or upon request of the hearing officer.
(c) The hearing officer shall grant oral and written argument on the request of any party or upon request of the hearing officer.
(d) The hearing officer shall grant oral and written argument on the request of any party or upon request of the hearing officer.

§ 51043. Disqualification of Hearing Officers.
(a) A hearing officer shall disqualify himself or herself from hearing a case if he or she has a personal or pecuniary interest in the case.
(b) A hearing officer shall disqualify himself or herself from hearing a case if he or she has a personal or pecuniary interest in the case.
(c) A hearing officer shall disqualify himself or herself from hearing a case if he or she has a personal or pecuniary interest in the case.
(d) A hearing officer shall disqualify himself or herself from hearing a case if he or she has a personal or pecuniary interest in the case.
§ 51039. Subpoenas and Witnesses.

(a) The hearing officer shall issue subpoenas and subpoenas duces tecum before the formal hearing, for attendance and production of documents in the formal hearing, if necessary, or in the case of any party. The hearing officer may issue subpoenas and subpoenas duces tecum after the formal hearing has commenced. Compliance with the provisions of Section 1985, California Code of Civil Procedure, shall be a condition precedent to the issuance of a subpoena duces tecum.

(b) The process issued pursuant to subsection (a) shall be issued in all parts of the State and shall be served in accordance with the provisions of Sections 1987 and 1988, California Code of Civil Procedure. No witness shall be obligated to appear at a place out of the county in which he resides unless the distance be less than 150 miles from that place of residence except that the hearing officer may confirm any party showing that the testimony of the witness is material and necessary, may extend the time for the subpoena an order requiring the attendance of such witness.

(c) Any party providing a subpoena to a witness other than the party or parties or employees of the State or any political subdivision thereof, shall require that the witness shall receive due process of law, and shall be subject to the sanctions under the same circumstances as prescribed by law for witnesses in civil actions in a superior court.

(d) Writs and warrants serve to subpoena, except the parties, witnesses, who attend formal hearings at points at or from their residences at their own expense and in accordance with the provisions of Sections 1987 and 1988, California Code of Civil Procedure. No witness shall be obligated to appear at a place out of the county in which he resides unless the distance be less than 150 miles from their place of residence except that the hearing officer may confirm any party showing that the testimony of the witness is material and necessary, may extend the time for the subpoena an order requiring the attendance of such witness.

(e) Any party providing a subpoena to a witness other than the party or parties or employees of the State or any political subdivision thereof, shall require that the witness shall receive due process of law, and shall be subject to the sanctions under the same circumstances as prescribed by law for witnesses in civil actions in a superior court.

§ 51040. Dispositions.

(a) On verified petitions of any party, the hearing officer may order that the attendance of any witness residing within or without the State be served by deposition in the manner prescribed by law for depositions in civil actions in civil actions. The process shall serve in all parts of the State.

(b) The purpose of the proceeding shall be to determine the veracity and truth of the testimony of the witness, to be used in the hearing, as well as the extent of compliance with the procedures for the taking of the deposition.

(c) The hearing officer may order that the witness be served by deposition in the manner prescribed by law for depositions in civil actions. The process shall serve in all parts of the State.

(d) The purpose of the proceeding shall be to determine the veracity and truth of the testimony of the witness, to be used in the hearing, as well as the extent of compliance with the procedures for the taking of the deposition.

(e) The hearing officer may order that the witness be served by deposition in the manner prescribed by law for depositions in civil actions. The process shall serve in all parts of the State.

(f) The purpose of the proceeding shall be to determine the veracity and truth of the testimony of the witness, to be used in the hearing, as well as the extent of compliance with the procedures for the taking of the deposition.

(g) The hearing officer may order that the witness be served by deposition in the manner prescribed by law for depositions in civil actions. The process shall serve in all parts of the State.

(h) The purpose of the proceeding shall be to determine the veracity and truth of the testimony of the witness, to be used in the hearing, as well as the extent of compliance with the procedures for the taking of the deposition.

(i) The hearing officer may order that the witness be served by deposition in the manner prescribed by law for depositions in civil actions. The process shall serve in all parts of the State.

(j) The purpose of the proceeding shall be to determine the veracity and truth of the testimony of the witness, to be used in the hearing, as well as the extent of compliance with the procedures for the taking of the deposition.
b) An institutional provider shall have 30 calendar days following the receipt of the written Report of Findings within which to file a request for formal hearing with the Director. The request shall be deemed filed on the date mailed to the Department. The said findings, as amended by the Report of Findings, shall be considered final and deemed dispositive of all issues raised. The Statement of Disputed Issues filed pursuant to Section 5102B at the end of the period unless good cause for late filing is found.

c) A request for formal hearing filed after the time permitted in subsections (b) shall be rejected unless the provider establishes in writing good cause for late filing within 15 calendar days of being notified of the existence of its request.

(d) A formal hearing shall normally be scheduled in each case involving a non-statutory provider. No separate request for formal hearing shall be required.

Note: Authority cited: Sections 14005, 14123.2 and 4171, Welfare and Institutions Code; Reference: Sections 14171, Welfare and Institutions Code.

Harvest

§ 51035. Notice of Formal Hearing

Written notice of the time and place of formal hearing shall be mailed to each party at least 30 calendar days before the date of hearing. This period may be shortened with the consent of the parties. Any party may waive notice.

Note: Authority cited: Sections 14005, 14123.2 and 4171, Welfare and Institutions Code; Reference: Sections 14171, Welfare and Institutions Code.

§ 51036. Department Mail Address

Note: Authority cited: Sections 14005, 14123.2 and 4171, Welfare and Institutions Code; Reference: Sections 14171, Welfare and Institutions Code.

Harvest
1. Repealer Subsection 7-1-85 effective March 2, 1985 (Regulation 83, No. 29).

§ 51037. Time and Place of Informal Level of Review and Formal Hearing

(a) The hearing officer shall determine the time and place of informal level of review or formal hearing shall be held at one of the following locations:

(1) In the County of:
(A) San Francisco if the provider resides within the First Appellate District.
(B) Los Angeles if the provider resides within the Second or Fourth Appellate District.

(2) Any other county in which the provider resides.

(b) Notwithstanding subdivision (a), the hearing officer may select:

(1) A different place within the county wherein the provider resides.
(2) Any other county in which the provider resides.

Note: Authority cited: Sections 14005, 14123.2 and 4171, Welfare and Institutions Code; Reference: Sections 14171, Welfare and Institutions Code.

Harvest

§ 51028. Manner of Service of Requests for Hearing

Note: Authority cited: Sections 14005, 14123.2 and 4171, Welfare and Institutions Code; Reference: Sections 14171, Welfare and Institutions Code.

Harvest
1. Repealer Subsection 7-1-85, effective March 2, 1985 (Regulation 83, No. 29).

§ 51029. Consolidation of Proceedings

Note: Authority cited: Sections 14005, 14123.2 and 4171, Welfare and Institutions Code; Reference: Sections 14171, Welfare and Institutions Code.

Harvest
1. Repealer Subsection 7-1-85, effective March 2, 1985 (Regulation 83, No. 29).

§ 51030. Hearing Officer's Authority

(a) The hearing officer shall determine the manner of service to be used by the hearing officer deemed appropriate:

(1) Consideration for hearing or defect in any number of issues or appeals where the facts and circumstances are similar and no substantial right of any party will be prejudiced.
(2) Joint other parties; grant continuances and hold additional formal hearings as necessary to dispose of all issues.
(3) Hear any issue before any other issue at the proceeding where it is found that the decision on that issue could affect further proceedings.
(4) Prepare a proposed decision on any separate issue based on the Director's signature and postpone hearing on any remaining issues until a final decision has been issued by the Director.

Note: Authority cited: Sections 14005, 14123.2 and 4171, Welfare and Institutions Code; Reference: Sections 14171, Welfare and Institutions Code.

Harvest
1. Repealer Subsection 7-1-85, effective March 2, 1985 (Regulation 83, No. 29).

§ 51031. Discovery

(a) After the acceptance of the statement of disputed issues, a party, upon written request made to another party, prior to the hearing and within thirty (30) calendar days after receipt of the Notice of Acceptance of the Statement of Disputed Issues or within fifteen (15) calendar days after the receipt of the Notice of Acceptance of an amended Statement of Disputed Issues or issuance of a Report of Findings, is entitled to:

(1) Obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the informal hearing or formal hearing.
(2) Inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(A) Statements pertaining to the subject matter of the proceeding made by any party to another party or person.

(B) Statements of witnesses then proposed to be called by the party and other parties having personal knowledge of the case, calculations or events which are the basis for disputed audit or examination findings, not included in subdivisions (2)(A) and (2)(B).

(C) All writings, including but not limited to audio work papers, patient ledgers, medical records and invoices or things which the party then proposes to offer into evidence.
(3) Other writing or thing which is relevant and which would be admissible in evidence.

(b) Investigative reports made for or on behalf of the Department or other parties pertaining to the subject matter of the proceeding, in determining that such reports:

(1) Contain the names and addresses of witnesses or of persons having personal knowledge of the case, calculations or events which are the basis for disputed audit or examination findings.
(2) Reflect matters perceived by the Investigator in the course of his investigation.

(c) Contain or include by attachment any statements or writing described in subdivisions (2)(A) through (2)(D) above, or summary thereof.

(d) For the purpose of this section, "writing" includes written statements by the parties, signed or otherwise acknowledged by the parties, typewritten, mechanical, electrical or other recordings, or reproductions thereof, or oral statements made by the person and written report or summary of such oral statements.

(e) Notice of this section shall authorize the inspection or copying of any writing or thing which is provided from documents by law or otherwise made confidential or privileged in the course of the proceeding.

(f) Any denial of discovery by a party shall be by writing and shall be accompanied by a written statement describing the specific reasons for denial in the form of discovery. Such denial shall be mailed within 10 calendar days from the date of filing the request for discovery.