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TITLE 67
PUBLIC WELFARE

Part

I. Preliminary Provisions

II. Public Welfare Generally

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Enactment. Unless otherwise noted, the provisions of Title 67 were added November 15, 1972, P.L.1063, No.271, effective in 90 days.

PART I
PRELIMINARY PROVISIONS

Chapter

1. Preliminary Provisions

Enactment. Part I was added November 15, 1972, P.L.1063, No.271, effective in 90 days.

CHAPTER 1
PRELIMINARY PROVISIONS

Sec.

101. Definitions.

Enactment. Chapter 1 was added December 3, 2002, P.L.1147, No.142, effective immediately.

Prior Provisions. Former Chapter 1, which related to the same subject matter, was added November 15, 1972, P.L.1063, No.271, and repealed October 22, 1981, P.L.317, No.111, effective immediately.

§ 101. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Department." The Department of Public Welfare of the Commonwealth.

"Secretary." The Secretary of the Department of Public Welfare of this Commonwealth.

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

The Secretary of Public Welfare, referred to in this section, was redesignated as the Secretary of Human Services by Act 132 of 2014.

PART II
PUBLIC WELFARE GENERALLY

Chapter

11. Medical Assistance Hearings and Appeals

Enactment. Part II was added November 15, 1972, P.L.1063, No.271, effective in 90 days.

CHAPTER 11
MEDICAL ASSISTANCE HEARINGS AND APPEALS

Sec.

- 1101. Definitions.
- 1102. Hearings before the bureau.
- 1103. Supersedeas.
- 1104. Subpoenas.
- 1105. Determinations, review, appeal and enforcement.
- 1106. Regulations.

Enactment. Chapter 11 was added December 3, 2002, P.L.1147, No.142, effective immediately.

§ 1101. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Bureau." The Bureau of Hearings and Appeals of the Department of Public Welfare.

"Hearing." A proceeding commenced in accordance with this chapter by a provider concerning an adjudication of the department relating to the administration of the program. The term includes an action relating to a provider's enrollment in, participation in, claims for payment or damages under or penalties imposed under the program.

"Program." The medical assistance program established by subarticle (f) of Article IV of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

"Provider." A person that is approved or was approved by the department to participate in the program or that seeks approval to provide medical assistance services under the program.

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

The short title of the act of June 13, 1967, P.L.31, No.21, known as the Public Welfare Code, referred to in the definition of "program," was amended by the act of December 28, 2015, P.L.500, No.92. The amended short title is now the Human Services Code.

§ 1102. Hearings before the bureau.

(a) General rule.--A provider that is aggrieved by a decision of the department regarding the program may request a hearing before the bureau in accordance with this chapter.

(b) Filing.--

(1) Except as provided in paragraph (2), a provider must file a request for a hearing with the bureau in accordance with all of the following:

(i) The request must be in writing.

(ii) The request must be filed with the bureau:

(A) within 30 days of the date of the notice of the departmental action; or

(B) if notice was given by mail, within 33 days of the date of the notice of the departmental action.

(iii) If the request was filed by first-class mail, the United States postmark appearing upon the envelope in which the request was mailed shall be considered the filing date. The filing date of a request filed in any other manner or bearing a postmark other than a United States postmark shall be the date on which the request is received in the bureau.

(2) Paragraph (1) does not apply in the following cases:

(i) In a nunc pro tunc hearing under subsection (c).

(ii) To the extent set forth in the standing order of the bureau issued under subsection (g).

(iii) To the extent modified by regulations promulgated under section 1106 (relating to regulations).

(c) Hearings nunc pro tunc.--The bureau, upon written request and for good cause shown, may grant leave for the filing of requests for hearing nunc pro tunc pursuant to the common law standards applicable in analogous cases in courts of original jurisdiction.

(d) Amendment.--A request for a hearing may be amended as of right within 90 days after the date of filing of the request.

(e) Adjudication.--

(1) The bureau shall hold hearings and conduct adjudications regarding timely filed requests for hearing in accordance with 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies).

(2) Notwithstanding paragraph (1), in holding hearings and conducting adjudications, the bureau shall do all of the following:

(i) Act independently of employees or public officials of the department whose actions are subject to review before the bureau.

(ii) Not engage in ex parte communications concerning a hearing with any party to the hearing.

(iii) Promptly adjudicate timely filed requests for hearing.

(iv) Establish deadlines for interim and final actions by the bureau and parties to any proceeding before the bureau.

(v) Allow reasonable and necessary discovery in the form of interrogatories, requests for the production of documents, expert reports, requests for admissions and depositions of witnesses and designees of parties, subject to case management plans and limitations as necessary to facilitate the prompt and efficient issuance of adjudications.

(vi) Consider and, when appropriate, grant applications by affected parties to consolidate hearings involving substantially similar or materially related issues of law or fact.

(vii) Conduct de novo review of all factual and legal issues raised by a provider in the request for hearing based upon evidence presented to the bureau.

(viii) Except as prohibited by statute or regulation, index and publish at reasonable costs determinations issued by the bureau and final orders issued by the secretary adjudicating requests on or after the effective date of this section. By July 1, 2003, the bureau shall make the determinations, final orders and index available electronically without cost to the public.

(f) Mediation.--The bureau may establish programs and procedures to promote the settlement of matters subject to its jurisdiction or to narrow issues subject to dispute through the use of mediation and arbitration.

(g) Standing order.--By July 1, 2003, the bureau shall, after receiving comment by interested parties, issue a standing order establishing rules governing practice before the bureau. The standing order shall be published in the Pennsylvania Bulletin. The standing order of the bureau shall be effective until modified by regulation.

Cross References. Section 1102 is referred to in section 1104 of this title.

§ 1103. Supersedeas.

(a) Not automatic.--A request for hearing filed pursuant to this chapter shall not act as an automatic supersedeas. The bureau may, however, grant a supersedeas upon good cause shown.

(b) Criteria.--The bureau, in granting or denying a supersedeas, shall be guided by relevant judicial precedent. Among the factors to be considered are:

- (1) irreparable harm to the petitioner;
- (2) likelihood of the petitioner prevailing on the merits; and
- (3) likelihood of injury to the public or other parties.

(c) Prohibition.--A supersedeas shall not be issued if injury to the public health, safety or welfare exists or is threatened during the period when the supersedeas would be in effect.

(d) Conditions.--In granting a supersedeas, the bureau may impose conditions which are warranted by the circumstances, including the filing of a bond or other security.

§ 1104. Subpoenas.

Consistent with section 1102(e)(2)(v) (relating to hearings before the bureau), the bureau may issue subpoenas compelling the attendance of witnesses, records and papers. The bureau may

enforce its subpoenas in Commonwealth Court. Commonwealth Court, after a hearing, may make an adjudication of contempt or may issue another appropriate order.

§ 1105. Determinations, review, appeal and enforcement.

(a) Determinations.--The bureau shall issue a determination adjudicating contested issues of fact and law and any appropriate order, decree or decision. A determination not appealed in accordance with subsection (b) shall be the final determination of the bureau and shall be binding upon the department and the provider who brought the appeal.

(b) Review.--

(1) A party that is aggrieved by a determination of the bureau may request review of the determination by the secretary within 30 days of the issuance of the determination.

(2) If the secretary fails to act upon a request within 30 days of receipt of the request for review, the request for review shall be deemed denied.

(3) If the secretary grants review, the secretary shall enter a final order within 180 days of the date of the order granting review. The secretary may affirm, reverse or modify the determination of the bureau or may waive compliance with program requirements to promote fairness and the proper administration of the program.

(4) If the secretary grants review but fails to act within 180 days of the date of the order granting the review, the determination of the bureau shall be deemed approved by the secretary.

(c) Appeals.--A provider aggrieved by a final determination of the bureau or a final order of the secretary may petition for judicial review in accordance with 2 Pa.C.S. Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action).

(d) Enforcement.--Final determinations, orders, decrees or decisions of the department, the bureau or the secretary shall be subject to enforcement by Commonwealth Court.

§ 1106. Regulations.

(a) Authority.--By July 1, 2004, the bureau, through the department, shall promulgate regulations establishing rules of procedure as may be necessary to carry out the provisions of this chapter.

(b) Advisory committee.--The bureau shall establish an advisory committee, including individuals experienced in proceedings before the bureau and other administrative agencies, to provide assistance and guidance in the development and modification of regulations which may be promulgated under this section.

Cross References. Section 1106 is referred to in section 1102 of this title.

PART III
INSTITUTION DISTRICTS
(Reserved)

Enactment. Part III (Reserved) was added November 15, 1972, P.L.1063, No.271, effective in 90 days.

PART IV
MISCELLANEOUS PROVISIONS

Chapter

61. Nonprofit Charitable Institutions (Repealed)

Enactment. Part IV was added November 15, 1972, P.L.1063, No.271, effective in 90 days.

CHAPTER 61
NONPROFIT CHARITABLE INSTITUTIONS
(Repealed)

1981 Repeal Note. Chapter 61 (§§ 6101 - 6104) was added November 15, 1972, P.L.1063, No.271, and repealed October 22, 1981, P.L.317, No.111, effective immediately.

APPENDIX TO TITLE 67

PUBLIC WELFARE

Supplementary Provisions of Amendatory Statutes

(Reserved)