Provider Reimbursement Review Board

Hearing Procedures for an Appeal of a Denial of an
ESRD Exception Request

- The facility has the burden of proof to show that the Health Care Financing Administration's (HCFA's) action did not conform to the provisions of 42 C.F.R. § 413.180 et seq (1999) and that the facility has satisfied
the requirements of a particular exception criterion. It must justify, as reasonable, any identifiable excess costs by component, items or services. (2/01)

- Any evidence presented at the hearing must be limited by the requirements in
42 C.F.R. § 413.194(c)(2)(1999). The facility shall have the right to be represented by counsel and to examine and cross-examine witnesses. (2/01)

- The hearing is not the forum to "perfect" an otherwise inadequate or insufficient exception request. Therefore, testimony and evidence will not be admissible where the information or data was not considered by HCFA at the time the exception request was submitted, even if material and relevant to the exception request criteria. See, 42 C.F.R. § 413.194(c)(2) (1999). This includes information and cost experience occurring before the exception request was filed, but not included in the exception request. In addition, cost experience occurring after an exception is requested is not admissible. The requirements of a particular exception criterion sought, coupled with the data submitted in the exception request, will determine the scope and type of admissible evidence. (02/01)

- The Board will accept:

1. All documentation submitted in the exception request.

2. All documentation and testimony regarding the intermediary and HCFA determinations. Documentation utilized in making the decision and testimony explaining HCFA's actions pertaining to its determination. (02/01)

Confidential Information

Because the hearing record is discloseable to the public, the parties should carefully review their documents to ensure that they do not inadvertently contain patient names, health insurance or social security numbers or other information that identifies individuals. Where patient data is necessary for a full presentation of the case, the material with patient identifying information must be redacted (untraceably removed) and replaced with non-identifying sequential numbers. Both parties must certify to the Board that they have reviewed the original materials and that the redacted materials have been properly prepared. If the parties cannot certify the redacted documents, a sealed envelope with a cross-reference from the sequential numbers to the patient information must be submitted with the redacted documents. **DOCUMENTS THAT DO NO COMPLY WITH THIS INSTRUCTION WILL NOT BE ACCEPTED BY THE BOARD, WILL BE RETURNED TO THE PARTY SUBMITTING THEM, WILL NOT BE PART OF THE RECORD AND NOT CONSIDERED IN THE DECISION MAKING PROCESS.** (2/01)