

Medical Indigency Hearing Procedure and Script

Draft as of April 8, 2017

Note: These instructions are for the hearing officer. The hearing officer can be a prosecutor, the Chair of the Board, or, ideally, a county employee who is not presenting evidence.

- 1. Schedule a hearing date that falls within 75 days of the notice of the appeal from the patient or the provider.**
- 2. Provide any and all exhibits to the appealing party (usually the provider) before the hearing.**
 - a. Ideally, at least a week before the hearing.
- 3. Open the hearing.**
 - a. Record the entire hearing (even the portions in executive session).
 - b. State: "It is now the noticed time and date for the hearing on Case # (INSERT NUMBER)."
 - c. *Note: If handling multiple cases, announce all hearing case numbers before going into executive session.*
- 4. Have the Board to go into executive session under Idaho Code 74-206(1)(d) "exempt records."**
- 5. Announce those in attendance.**
 - a. Check the lobby or hallway to make sure that all people intending to attend are present.
 - b. "I am (INSERT NAME), I am (INSERT JOB TITLE) with (INSERT COUNTY), and I will be acting as the hearing officer in this case."
 - c. "(INSERT NAMES OF COMMISSIONERS) are the decision makers on this case."
 - d. "(INSERT NAMES OF ANY OTHERS PRESENT, INCLUDING THEIR JOB TITLES) are also present."
 - e. (Note: Make note of the individuals who are not present, especially if the patient or the providers are not in attendance.)
- 6. Explain the procedure and the process.**
 - a. (Note: This step is obviously not necessary, but patients can be very confused about the nature of the hearing, the significance of the lien on their property, and the roles of the prosecutor and the attorneys for the provider. Providing a brief explanation of the whole process at the beginning can alleviate some stress for the patients.)
- 7. Swear in anyone who will be offering evidence and giving testimony.**
 - a. "Which of you plan to offer evidence or give testimony? (have them raise their hands)."
 - b. "Please state your name and address. If you are not the patient, please also state your employer."
 - c. "Those of you who are planning to offer evidence of give testimony, please raise your right hands and be sworn please."
 - d. Clerk/deputy clerk: "Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth?"

- e. Ask the clerk if she checked the lobby to see if anyone was present. Have her answer on the record, especially if no one shows up for the hearing and the decision is a denial.

8. Admit the County's exhibits.

- a. Ask the medical indigency clerk "Do you have any exhibits that you would like to admit into evidence?"
- b. Ask the medical indigency clerk "Please summarize the list of the exhibit numbers and explain briefly what is contained on each exhibit."
- c. Ask the medical indigency clerk "Do you want these admitted into evidence?"
- d. Allow the other party to review the exhibits and ask "Do you have any comments to make regarding these exhibits?"
 - i. *Note: These exhibits should have been provided to the provider in advance of the hearing in order to make the best use of the hearing time.*
- e. After the other party has made its comments, announce that "Exhibits ## through ## have been admitted into evidence."

9. Ask the medical indigency clerk to summarize the case for consideration by the Board.

- a. The medical indigency clerk should summarize the findings for the case, particularly on whether (1) the patient was indigent; (2) the application was timely; (3) the medical care was necessary; (4) the services were correctly applied for. The medical indigency clerk should indicate throughout her presentation which exhibits contain information supporting her case.
- b. At the end of her presentation, the medical indigency clerk should give the Board a recommended motion to make at the conclusion of the case.

10. Give the Board time to review the exhibits and any evidence.

11. Open up time for questions.

- a. Ask: "Does the Board, the Prosecutor, or the Provider have any questions for the medical indigency clerk?"
- b. decision is a denial.

12. Admit the Provider's exhibits.

- a. Ask the Provider "Do you have any exhibits that you would like to admit into evidence?"
- b. Ask the Provider "Please summarize the list of the exhibit numbers and explain briefly what is contained on each exhibit."
- c. Ask the Provider "Do you want these admitted into evidence?"
- d. Allow the other parties to review the exhibits and ask "Do you have any comments to make regarding these exhibits?"
 - i. *Note: These exhibits should have been provided to the County long ago.*
- e. After the other parties have made their comments, announce that "Exhibits ## through ## have been admitted into evidence."

13. Ask the Provider to summarize the case for consideration by the Board.

- a. The Provider should summarize its findings and arguments for the case.
- b. At the end of her presentation, the Provider should give the Board a recommended motion to make at the conclusion of the case.

14. Give the Board time to review the exhibits and any evidence.

15. Open up time for questions.

- a. Ask: "Does the Board, the Prosecutor, or the medical indigency clerk have any questions for the Provider?"

16. Admit the Patient's exhibits.

- a. Ask the Patient "Do you have any exhibits that you would like to admit into evidence?"
- b. Ask the Patient "Please summarize the list of the exhibit numbers and explain briefly what is contained on each exhibit."
- c. Ask the Patient "Do you want these admitted into evidence?"
- d. Allow the other parties to review the exhibits and ask "Do you have any comments to make regarding these exhibits?"
- e. After the other parties have made their comments, announce that "Exhibits ## through ## have been admitted into evidence."

17. Ask the Patient for his statement.

- a. Ask the Patient "Is there anything that you would like to say that you think would help the Board make a better decision? Do you have any information to offer about the things you've already heard about you and this application?"

18. Give the Board time to review the exhibits and any evidence.

19. Open up time for questions.

- a. Ask: "Does the Board, the Prosecutor, or the Provider have any questions for the Patient?"

20. Check with the medical indigency clerk regarding her recommendation.

- a. Ask the medical indigency clerk "Based on the additional testimony and exhibits, is your recommendation the same or do you have a revised recommended motion for the Board?"

21. Encourage the Board to discuss their thoughts and reasoning for their anticipated decision in the case.

- a. Tell the Board: "Please feel free to deliberate and explain your thought process behind how you think you are going to vote in this case."
- b. Ideally, give the Board a checklist of the "elements" of the case, and have the commissioners discuss what they believed the evidence showed for each element.
 - i. E.g. "The evidence was fairly obvious that he has been a resident of our county for at least 10 years."
 - ii. E.g. "The evidence suggested to me that the patient definitely needed to be admitted to the ER on the first day, but he didn't need to be there in in-patient treatment after the first week – both Dr. Dammrose and the treating physician indicated that in their notes."

22. Make decisions out of executive session.

- a. Have the Board come out of executive session.
- b. Have the Board make all the motions and decisions on the cases.
- c. Some sample motions:
 - i. Complete approval: "I move to approve all expenses in Case No. ###."

- ii. Partial approval/denial: “I move to approve the expenses laid out in Exhibit ## in Case No. ###, and to deny the remaining expenses.”
- iii. Complete denial: “I move to deny the application in Case No. ###.”
- iv. Take under advisement: “I move to take the application in Case No. ### under advisement, and to render a written decision within 30 days.”¹
 - 1. *Note: This is generally the most advisable way to go so that the clerk’s office can prepare written findings of fact, conclusions of law, and make a record of the reasons for the Board’s decision in this case. This is especially crucial if the Board received new information, will be receiving new information soon, or needs to research the law on a specific issue.*
- v. Continue the hearing:
 - 1. 1st continuance
 - a. “I move to continue the hearing to [INSERT DATE – must be within 45 days] allow the applicant/provider the opportunity to investigate and provide more information.”²
 - b. “I move to continue the hearing to [INSERT DATE – must be within 45 days] to give the clerk an opportunity to review the newly provided information today.”
 - 2. 2nd and later continuances – “I move to continue the hearing to [INSERT DATE] if the applicant/provider agrees.”

23. Close the hearing.

- a. Once the hearing is finally concluded, then announce “That concludes the hearing for Case Number ###.”
- b. This now means that neither side can provide any more additional evidence.

24. Mail notice of the final determination.

- a. Mail notice of the denial of an application to the applicant or third party applicant within 5 days of the final determination.³

¹ The 30 day time period is set forth in Idaho Code 31-3505E. The board is required to make a final determination within 30 days of the conclusion of the hearing.

² Idaho Code 31-3505E.

³ Idaho Code 31-3505E.