**Section 112.10 Utilization review hearings**

a) Utilization review hearings shall be conducted in accordance with Sections 3-207, 3-405, 3-903, 3-910, 4-209, 4-312, 4-704 and 4-709 of the Code. When a person who is evaluated as being mildly or moderately mentally retarded, resides in a Department mental health facility and objects to the facility director's certification of the treatment and habilitation plan or the appropriateness of the setting, a utilization review hearing shall be conducted in accordance with Section 112.20(g). b) Definitions

"Aftercare." The continuation of needed care and services of a recipient discharged from a state-operated facility within an appropriate setting with individualized follow-up services.

"Code." The Mental Health and Developmental Disabilities Code [405 ILCS 5].

"Day." As used in this Section and in Section 112.20 means calendar day unless otherwise indicated.

"Department." The Department of Human Services.

"Discharge." The full release of any person admitted under the provisions of the Code, or transferred under the provisions of Sections 3-8-5, 3-8-6, 3-10-5 and 3-10-6 of the Unified Code of Corrections [730 ILCS 5/8-5, 8-6, 10-5 and 10-6] for treatment or habilitation.

"Facility Director." The director or hospital administrator of a mental health or developmental disabilities facility.

"Guardian." The plenary guardian of the person or limited guardian of the person with specific court authority to make mental health decisions on the person's behalf. (Section 11a-14 of the Probate Act of 1975 [755 ILCS 5/11a-14].) It does not include a guardian ad litem or person in loco parentis or with power of attorney.

"Guardian ad litem." A person appointed by the court to defend or represent the interests of a minor or alleged legally disabled during a guardianship proceeding or in other matters. This person has no right to interfere with the minor's or alleged legally disabled person or estate.

"In loco parentis." Any individual, other than a parent or legal guardian, who has the primary functional responsibility of providing food, shelter, medical care and education to a minor.

*"Person subject to involuntary admission." A person who is mentally ill and who because of his or her illness*:

*is reasonably expected to inflict serious physical harm on him/herself or another in the near future; or*

*is unable to provide for his or her basic physical needs so as to guard himself or herself from serious harm.* (Section 1-119 of the Code)

"Responsible relative." The spouse or, if the recipient is under 18 years of age, the parent of a recipient of services. (Section 1-124 of the Code)

"Secretary." The Secretary of the Department of Human Services or his or her designee, or the Manager of the Office of Clinical Services when applicable pursuant to Section 1-108 of the Code.

"Transfer." The movement of a recipient from one Department facility to another Department facility or to a Veterans' Administration facility. This does not include movement from a Department facility to a non-Department facility (other than to a Veterans' Administration facility) or movement between separate units or discrete portions of the same facility. It also does not include the discharge of a recipient.

c) Notice requirements

1) Notice of denial of admission

Whenever a person seeking admission to a Department facility is denied admission by the facility, the person shall be given within two hours written notice of his or her right to request a review of the denial of the facility's decision on the Notice of Denial of Admission and Right to Request Review form.

2) Notice of non-emergency transfer

A) Whenever a recipient who has been in a Department facility for more than seven days is to be transferred to another facility, the facility director shall give written notice of the proposed transfer on the "Notice of Transfer" form, to the persons identified in Sections 4-206 and 4-709 of the Code at least 14 days prior to the scheduled transfer.

B) Notice of transfer and the right to object shall be given to recipients being transferred to the Chester Mental Health Center even when such recipients have been in the Department facility for less than seven days and to the adult recipient's attorney, guardian, if any, and responsible relative and to the minor recipient's attorney, parent, guardian or person in loco parentis who executed the application for admission in accordance with Section 3-910 of the Code. Except in an emergency, as specified in subsection (c)(3) of this Section, no transfer shall proceed pending the facility director's decision or any administrative or judicial review of that decision which is permitted by law. (See subsection (e)(3) for waiver provisions.)

3) Notice of emergency transfer

In an emergency, when the health of the recipient or the physical safety of the recipient or others is imminently imperiled and appropriate care and services are not available where the recipient is located, a recipient shall be transferred to another facility as soon as transfer arrangements can be made, provided that notice is given in accordance with subsection (c)(2) of this Section, as soon as possible but not later than 48 hours after the transfer. If an emergency transfer cannot be effected within 48 hours after the decision to transfer, the transfer shall proceed only as a non-emergency transfer with prior written notice of the right to object as provided in Sections 3-910 and 4-709 of the Code and subsection (c)(2) of this Section.

4) Notice of discharge

A) Recipient in a mental health facility

i) Adult – Notice shall be given to the adult recipient, the recipient's attorney, and guardian, if any, on the "Notice of Discharge" form, at least seven days prior to the date of intended discharge.

ii) Minor – Notice shall be given to his or her attorney, his or her parent, guardian, or person in loco parentis who executed the application for admission, and to the minor if he or she is 12 years of age or older, on the "Notice of Discharge" form, at least seven days prior to the date of intended discharge.

B) Recipient in a developmental disabilities facility

i) Notice shall be given at least 14 days prior to the date of discharge.

ii) Notice shall be given on the "Notice of Discharge" form, to the recipient, if he or she is 12 years of age or older, to the recipient's attorney and guardian, if any, to the person who executed the application for admission and to the resident school district if the recipient is receiving educational services.

C) Discharge pending a hearing or review

No discharge shall proceed pending the facility director's decision or any administrative or judicial review of that decision which is permitted by law, except that persons temporarily admitted under Section 4-311 of the Code shall not stay beyond 30 days plus the additional time up to the hearing.

5) Notice contents

A) All notices for transfers or discharge shall include:

i) The reasons for the transfer or discharge;

ii) A statement of the right to object; and

iii) The address and telephone number of the Guardianship and Advocacy Commission.

B) All notices of denial of admission shall include:

i) A statement of the right to request a review of the denial; and

ii) The address and telephone number of the Guardianship and Advocacy Commission.

C) If the recipient's or guardian's primary language is not English or if the recipient or guardian is hearing impaired and/or vision impaired, arrangements must be made to provide for an adequate explanation in the person's primary language in accordance with the Department's rule at 59 Ill. Adm. Code 111.20 or preferred method of communication of the recipient's right to request a review. Arrangements will be made to secure the services of an interpreter who is fluent in the recipient's or guardian's primary language to explain the notice to the recipient or guardian.

6) Manner of service of notices

All notices required by Sections 3-405(a), 3-903(a), 3-910, 4-312(a), 4-704(a) and 4-709 of the Code shall be served personally on the recipient and/or objector whenever possible. A copy of the notice, signed by the recipient in acknowledgment of service, shall be placed in the recipient's clinical record. When personal service is not possible, first class mail shall be used to serve notice on the recipient and/or objector and any other person entitled to receive notice.

7) Aftercare and case coordination

Aftercare and case coordination shall be provided to all discharged and conditionally discharged recipients in accordance with the Department's rules at 59 Ill. Adm. Code 125 (Recipient Discharge/Linkage/Aftercare).

d) Requests for review of denial of admission

1) To a mental health facility

A) Adult – A review of a denial of admission may be requested by the person seeking admission or, with the person's consent, by an interested person on his or her behalf.

B) Minor – The request may be made by the minor's attorney, by his or her parent, guardian or person in loco parentis who executed the application for admission, or by the minor if the minor is 16 years of age or older.

2) To a developmental disabilities facility

A review of the denial of admission may be requested by the person who executed the application for admission or by the attorney or guardian of the person for whom admission is sought.

3) Manner of requesting review

The request for review must be submitted, in writing, to the facility director of the facility to which admission was sought within 14 days after the denial. Facility staff shall notify the recipient or other persons requesting review that staff are available to assist in contacting the Guardianship and Advocacy Commission and to prepare a written request for review of a denial of admission.

4) Admission pending review

An individual requesting review of admission denial does not have a right to admission pending the outcome of the hearing and review.

e) Objection to a transfer or discharge

1) Transfer of a recipient

A) Adult recipient in a mental health facility

A recipient may object to his or her transfer or the recipient's attorney, guardian, or responsible relative may object on the recipient's behalf.

B) Minor recipient in a mental health facility

The minor's attorney, the person who executed the application for admission, or the minor, if the minor is 12 years of age or older, may object to the transfer.

C) Recipient in a developmental disabilities facility

A recipient may object to his or her transfer or any person entitled to receive notice under subsection (c)(2) of this Section, may object on the recipient's behalf.

D) Manner of making an objection

An objection to a transfer must be submitted, in writing, prior to the transfer or within 14 days after an emergency transfer to the facility director of the facility where the recipient is located. Facility staff shall notify the recipient or other persons objecting to a transfer that staff are available to assist in contacting the Guardianship and Advocacy Commission and to prepare a written objection to a transfer.

2) Discharge of a recipient

A) In a mental health facility

i) Adult – A recipient may object to his or her discharge or the recipient's attorney or guardian may object on the recipient's behalf.

ii) Minor – The minor's attorney, the person who executed the application for admission, or the minor, if the minor is 12 years of age or older, may object to the discharge.

B) In a developmental disabilities facility

The recipient, if he or she is 12 years of age or older, may object to the discharge or conditional discharge, or the recipient's attorney or guardian, or the person who executed the application for admission, may object on the recipient's behalf.

C) Manner of making an objection

All objections to a discharge must be submitted, in writing, to the facility director of the facility where the recipient is located prior to the discharge. Facility staff shall notify the recipient or other persons objecting to a discharge that staff are available to assist in contacting the Guardianship and Advocacy Commission and to prepare a written objection to a discharge.

3) Waiver of hearing

A) Any person entitled to request a hearing regarding a denial of admission, a discharge or a transfer may waive his or her hearing thereon. If a legally competent adult recipient or legal representative on the recipient's behalf waives his/her hearing, a request for a hearing made by another person will not be honored.

B) A waiver shall be deemed effective only if all of the following conditions are satisfied:

i) The person has been advised of his or her rights to object and to have a hearing;

ii) The person has been advised of and understands the consequences of waiving such hearing; and

iii) The person has expressed his or her waiver of the hearing in writing.

C) All waivers shall be filed in the recipient's medical record along with the notice. The record should:

i) Reflect that the recipient was advised and understood the consequences of the waiver; and

ii) Indicate who made the decision that the recipient understood the consequences of the waiver.

D) When a waiver of a hearing has been made in accordance with subsection (e)(3)(B)(iii) of this Section, the Department may proceed to implement its transfer or discharge.

E) If the person, or legal representative on that person's behalf, withdraws the waiver prior to the expiration of the 14-day period for transfer or the seven-day period for discharge, such action shall be considered a formal objection and a hearing shall be scheduled. The responsibility for the hearing shall be with the transferring or discharging facility.

f) The utilization review committee

Each Department facility director shall recommend individuals to serve on a utilization review committee(s) in accordance with Sections 3-207 and 4-209 of the Code to hear requests for review and objections received under the Code. The recommendations shall be sent to the Secretary or his or her designee for approval or denial.

1) The committee shall consist of at least three and not more than seven members, who shall represent at least two different professional clinical disciplines, trained and equipped to deal with the recipient's clinical and treatment needs (for persons with mental illness) or habilitation needs (for persons with developmental disabilities) or both types of needs for those persons with dual diagnosis in accordance with Section 112.20(g)(3). Clinical disciplines include psychiatry, psychology, medicine, nursing, social work, or the other disciplines that qualify a person to be a qualified mental retardation professional, as defined in Section 112.20(d).

A) The committee membership may be permanent or rotating, at the facility director's discretion and must be approved by the Secretary; or

B) The facility director shall not recommend himself/herself or designee, or any staff member involved in the decision to admit, transfer or discharge the recipient to be a committee member or to participate in the committee's decision on any request for review or objection.

2) The facility director, or at the facility director's discretion, the committee, shall appoint, from the committee's membership, a chairperson who shall have the duties and responsibilities as set forth in subsection (g)(2)(A) of this Section.

g) The utilization review hearing

1) General provisions

A) Scheduling the hearing

Upon receipt of a request for a review or an objection, the facility director shall schedule a hearing to be held at the facility within seven working days. If the hearing is to review an objection to a transfer, the hearing shall be held at the transferring facility. When an emergency transfer has taken place, the hearing will be held at the receiving facility, provided that the hearing may be held at the transferring facility when the facility director of the receiving facility finds that either of the parties would not be able to completely present witnesses or evidence at a hearing at the receiving facility within the specified time.

B) Notice of hearing

The recipient and objector, and the representative or attorney of each, shall be informed, in writing, of the time, place and date of the hearing either personally or by first class mail at least 72 hours before the hearing.

C) Continuances

The committee chairperson, at his or her sole discretion, may grant a continuance of the hearing at the request of the Department or the recipient or objector if he or she determines that a continuance would not adversely affect the rights of either of the parties to present evidence and witnesses.

D) Representative

The recipient and objector may be represented at the hearing by any person of his or her choice, subject to the provisions of subsection (g)(2)(A)(iv) of this Section.

E) Witnesses

The Department and the recipient and objector may present evidence orally and in writing and may present argument. The facility director or designee shall appoint one or more persons to present the Department's case at the hearing.

F) Right to be present

Unless waived by the recipient or his or her attorney, the recipient or the objector (if not the recipient) has the right to be present at the hearing as well as responsible relatives and other interested persons designated by the recipient.

2) Hearing procedures

A) Duties of the chairperson

The chairperson is responsible for the orderly conduct of the utilization review hearing. He or she shall conduct the hearing so that both the facility and the objector are allowed to present their evidence and arguments completely. To these ends, the chairperson has the following authorities and responsibilities, including, but not limited to:

i) Requiring the Department to present its evidence prior to hearing evidence from the recipient or objector;

ii) Prescribing the order of presentation within the Department's or objector's presentation to accommodate witnesses' schedules or respond to inquiries from committee members;

iii) Terminating the taking of testimony when the committee is satisfied that both parties have presented all relevant information related to the facility's decision;

iv) Declaring an individual ineligible to represent the recipient or objector due to his or her employment by the Department. If the chairperson declares an individual ineligible, he or she shall give the recipient an opportunity to secure a substitute within seven days. This shall not be used to prevent a Department employee from testifying on behalf of the recipient;

v) Taking official notice on the record of generally recognized technical, scientific or clinical facts within the Department's specialized knowledge;

vi) Insuring that a complete and accurate record of the hearing is made by an audio tape or stenographic recording;

vii) Insuring that the committee's findings of fact, conclusions and recommendations are in compliance with subsection (i)(2) of this Section.

B) Evidence

i) The committee shall not be bound by the rules of evidence or procedure, but shall conduct the proceedings in a manner that insures both parties are allowed to present their evidence and arguments completely.

ii) When the hearing will be expedited and the interests of the parties will not be prejudiced, all or any part of the evidence may be received in written form if disclosed to all other parties, at least two days, excluding weekends and holidays, prior to the hearing.

iii) Any party or representative may ask questions of any other party or witness, and the committee may ask questions of any party or witness. Questions impeaching the witnesses' character or credentials shall be prohibited.

iv) If the chairperson takes notice of any generally recognized technical, scientific, or clinical facts within the Department's specialized knowledge, he or she shall so inform the recipient and objector and shall afford them an opportunity to contest the material so noticed. The committee may use the Department's experience, technical competence and specialized knowledge in its evaluation of the evidence.

h) Standards

1) For denial of admission to a mental health facility

A) Informal and voluntary

The person may be denied admission if he or she is not clinically suitable for admission. This standard applies to all persons age 16 years or older who have executed their own application for admission. (See Sections 3-300(a), 3-400 and 3-502 of the Code.)

B) Application for a minor executed by his or her parent(s), guardian or person in loco parentis

The minor may be denied admission if the minor:

i) Does not have a mental illness or emotional disturbance; or

ii) Does not have a mental illness or emotional disturbance of such severity that hospitalization is necessary; or

iii) Has a mental illness or emotional disturbance of such severity that the minor's hospitalization is necessary but the minor is unlikely to benefit from inpatient treatment. (See Section 3-503(a) of the Code.)

C) Application for a minor is executed by another person 18 or older

The minor may be denied admission if those conditions listed in subsection (h)(1)(B) of this Section are present or if the minor is not in such condition that immediate hospitalization is necessary. (See Section 3-504(a) of the Code.)

2) For denial of admission to a developmental disabilities facility

A) Administrative admission

A person may be denied admission if he or she is not clinically suitable for admission. (See Section 4-302 of the Code.)

B) Temporary admission

A person may be denied admission if:

i) He or she is not developmentally disabled; or

ii) The parent or guardian will not benefit from respite care; or

iii) There is no crisis which necessitates immediate temporary residential services. (See Section 4-311 of the Code.)

3) For transfer from a mental health facility

A) All transfers occurring more than seven days after admission

The facility director may transfer a recipient if the transfer is clinically advisable and consistent with the recipient's treatment needs as defined by the recipient's individual treatment plan. (See Section 3-908 of the Code.)

B) Emergency transfers

A recipient may be transferred as soon as the transfer can be arranged when the health of the recipient or the physical safety of the recipient or others is imminently imperiled and appropriate care is not available at the facility where the recipient is located. (See Section 3-910(b) of the Code.) If an emergency transfer cannot be effected within 48 hours after the decision to transfer, the transfer shall proceed only as a non-emergency transfer with prior written notice of the right to object as provided in Section 3-910 of the Code and subsection (c)(2).

C) Transfer to a more restrictive facility

A recipient may be transferred if the transfer is clinically advisable and consistent with the recipient's treatment needs as defined by the recipient's individual treatment plan and is required for the safety of the recipient or others. (See Sections 3-908 and 3-910(d) of the Code.)

D) Transfer of minors to adult units

A minor recipient may be placed in the same unit with adult recipients if:

i) The placement is to a medical unit because of a physical illness; or

ii) The minor recipient is between 13 and 18 years of age and temporary security measures are needed. (See Section 7 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/7].)

4) For transfer from a developmental disabilities facility

A) All transfers occurring more than seven days after admission

The facility director may transfer a recipient if the transfer is appropriate and consistent with the recipient's habilitation needs as defined by the recipient's individual habilitation plan. A facility which is close to the recipient's place of residence shall be preferred unless the recipient requests otherwise or unless compelling reasons exist for preferring another facility. (See Section 4-707 of the Code.)

B) Emergency transfers

A recipient may be transferred as soon as the transfer can be arranged when the health of the recipient or the physical safety of the recipient or others is imminently imperiled and appropriate care and services are not available at the facility where the recipient is located. (See Section 4-709(a) of the Code.) If an emergency transfer cannot be effected within 48 hours after the decision to transfer, the transfer shall proceed only as a non-emergency transfer with prior written notice of the right to object and provided in Section 4-709 of the Code and subsection (c)(2) of this Section.

C) Transfers to a more restrictive facility

A recipient may be transferred if the transfer is appropriate and consistent with the recipient's habilitation needs as defined by the recipient's individual habilitation plan and the transfer is reasonably required for the safety of the recipient or others. (See Sections 4-707 and 4-709(c) of the Code.)

D) Transfer of minors to adult units

A minor recipient may be placed in the same unit with adult recipients if:

i) The placement is to a medical unit because of a physical illness; or

ii) The minor recipient is between 13 and 18 years of age and temporary security measures are needed. (See Section 7 of the Mental Health and Developmental Disabilities Administrative Act.)

5) For all discharges

For all discharges, the Department must not only prove by evidence offered at the hearing that the standards cited in subsections (f)(6) and(7) of this Section have been met, but must also determine and have in writing the determination that the recipient to be discharged is not currently in need of hospitalization and:

A) Is able to live independently in the community; or

B) Requires further oversight and supervisory care for which arrangements have been made with responsible relatives or a supervised residential program approved by the Department; or

C) Requires further personal care or general oversight as defined in the Nursing Home Care Act [210 ILCS 45], for which placement arrangements have been made with a family home or other licensed facility approved by the Department under Section 15 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/15].

6) For discharges from a mental health facility

A) Voluntary, informal or minor admissions

The facility director may discharge any voluntary, informal or minor recipient who is clinically suitable for discharge. (See Section 3-902(a) of the Code.)

B) Involuntary admissions

The facility director shall discharge any recipient who is admitted on a court order for involuntary admission when the recipient is no longer subject to involuntary admission, unless voluntary admission is requested and the recipient is clinically suitable. (See Sections 1-119 and 3-902(b) of the Code.)

C) Transfers from Department of Corrections

The facility director shall release to the Department of Corrections any recipient transferred to the Department from the Department of Corrections under the provisions of Sections 3-8-5, or 3-10-5 of the Unified Code of Corrections when the recipient is no longer subject to involuntary admission, if he or she is 18 or older, or if the recipient no longer meets the standard for admission of a minor to a mental health facility if he or she is 17 or younger. (See Sections 3-8-6 or 3-10-6 of the Unified Code of Corrections.)

7) For discharges from a developmental disabilities facility

A) Administrative and temporary admissions

The facility director may discharge any recipient who is suitable for discharge. (See Section 4-701(a) of the Code.)

B) Conditional discharge

The facility director may grant a conditional discharge to a recipient when conditional discharge is appropriate and consistent with the recipient's habilitation needs. (See Section 4-702(a) of the Code.)

C) Judicial admissions

A recipient admitted to a facility upon court order for judicial admission may be discharged when the recipient no longer meets the standard for judicial admission, unless administrative admission is requested and the recipient is clinically suitable. (See Sections 4-500 and 4-701(b) of the Code.)

D) Transfers from Department of Corrections

The facility shall release to the Department of Corrections any recipient transferred to the Department from the Department of Corrections under the provisions of Sections 3-8-5, or 3-10-5 of the Unified Code of Corrections when the recipient no longer meets the standard for judicial admission, if he or she is 18 or older, or if the recipient is suitable for administrative admission to a developmental disability facility, if he or she is 17 or younger. (See Sections 3-8-6 or 3-10-6 of the Unified Code of Corrections.)

i) The committee's findings of fact, conclusions and recommendations

1) Within three working days after the conclusion of the utilization review hearing, the committee shall submit to the facility director its written findings of fact, conclusions and recommendations. The committee shall not consider or decide questions of law.

2) Findings of fact, conclusions and recommendations shall be separately stated and so labeled. Findings of fact shall be based exclusively on the evidence and on matters officially noticed. The Department has the burden of proof in all utilization review hearings.

A) Findings of fact

To conclude that the Department has sustained its burden of proof, the committee must find that the Department has established the facts by substantial evidence. Substantial evidence is such evidence as a reasonable person can accept as adequate to support a conclusion (i.e., consists of more than a scintilla of evidence but somewhat less than a preponderance).

B) Conclusions and recommendations

i) If the committee finds that the Department has established the facts by substantial evidence, it shall make its written conclusion that the decision was based on substantial evidence and shall recommend that the decision be upheld.

ii) The committee shall recommend that the decision be overturned if it concludes that the Department has not sustained its burden of proof.

C) Manner of service of the committee's recommendations

A copy of the committee's recommendations, with its factual findings and conclusions, shall be given to the recipient and objector at the time the recommendations are submitted to the facility director. Service may be made either personally or by certified first class mail.

j) Facility director decision

The facility director shall review the committee hearing record to determine if the evidence supports the committee's findings of fact, conclusions and recommendations. The facility director shall not consider or decide issues of law nor participate in reviewing the committee's recommendations in those instances in which the facility director made the original decision which was appealed. In such circumstances, the facility director shall appoint a designee to review the committee's findings, conclusions and recommendations.

1) Decision

Within seven days, excluding Saturdays, Sundays and holidays, after receipt of the committee's recommendations, the facility director shall either accept or reject the recommendations and shall state the reasons for accepting or rejecting the recommendations. The facility director shall provide a concise statement explaining the bases for his or her decision.

2) Manner of service of notice

The facility director shall give written notice using the "Notice of Facility Director's Decision" form, either by personal delivery or by certified first class mail, to the recipient and objector and their attorneys or representatives within the seven days specified in subsection (j)(1) of this Section.

3) Right to review

A) The facility director shall, in every case, advise the recipient and objector that if further review of his or her decision is desired, it may be obtained by requesting review by the Secretary, in writing to the facility director, within seven working days of receipt of the decision.

B) If the facility director rejects the committee's recommendations or if the recipient or objector requests a review of the facility director's decision, the facility director shall forward a copy of his or her decision, the committees' recommendations and the hearing record to the Secretary, within two working days.

k) Review by the Secretary

1) How requested

Whenever a recipient or objector requests that the Secretary review the facility director's decision, such request must be in writing, either to the facility director or the Secretary. The person submitting the request must state the reasons he or she believes that the facility director's decision is incorrect.

2) Time for request

The person submitting the request for review must submit it within seven days after receipt of the facility director's decision. If he or she does not submit a request for review within this period, the facility director's decision shall be deemed final and reviewable in accordance with the Administrative Review Law [735 ILCS 5/Art. III].

3) Scope of the review

The Secretary's review shall extend to all questions of law and of fact presented by the entire record of the utilization review hearing and the facility director's decision. The Secretary shall not consider any additional evidence. The committee's findings and conclusions on questions of fact shall be presumed to be true and correct.

4) The Secretary's authority

The Secretary shall, in reviewing any facility director's decision, have the authority, if he or she deems it necessary to reach a decision as to any question of fact or law based on the complete record:

A) To dismiss a request for review as moot or not ready for adjudication;

B) To approve or disapprove the facility director's decision in whole or in part;

C) To reverse and remand the facility director's decision in whole or in part and, in such case, to state the questions requiring further hearing or proceedings and to give such other instructions as deemed proper;

D) To remand the committee for the purpose of taking additional evidence when from the state of the record of the hearing, it shall appear that such is necessary to resolve the issues raised at the hearing.

5) Manner of service of decision

The Secretary's decision shall be served on the recipient and objector and their attorneys or representatives, either by personal delivery or by certified first class mail, addressed to the recipient and objector at his or her last known address no later than 30 days after the person has submitted the request for the review.

6) Final administrative decision

The Secretary's decision shall constitute the Department's final administrative decision and no application for rehearing will be entertained. The decision is then reviewable in accordance with the Administrative Review Law.

(Source: Amended at 23 Ill. Reg. 10327, effective August 10, 1999)