

Terms of Reference for Appeal Hearing

1. Purpose

The Healthcare Employees' Benefits Plan (HEBP) Board of Trustees has established an Appeal Hearing in order to provide a final level of appeal within the Disability & Rehabilitation Plan D&R Plan (the Plan) for members where Disability Benefits are in dispute.

2. Objectives

The Appeal Hearing exists to provide a forum wherein members receive final adjudication of the decision respecting Disability Benefits.

The adjudication is to be based upon the member's then-existing file. No new evidence will be considered.

3. Evidence

The Appeal Hearing will be heard before a single Arbitrator based on the member's file as it exists at the date of the final adjudication of the Decision which is the subject of the Appeal Hearing.

The Arbitrator shall not accept any new evidence at any Appeal Hearing.

If an Appeal Hearing in person is selected, any oral evidence to be tendered will be limited to evidence from the member and a representative of HEB Manitoba and shall be limited to matters in the member's file as it existed at the date of the final adjudication of the Decision which is the subject of the Appeal Hearing.

4. Jurisdiction

The single Arbitrator has jurisdiction to make a determination as to whether the member's appeal respecting Disability Benefits should be allowed or refused.

If the Arbitrator determines that the member's appeal is to be allowed, they will make a determination as to the entitlement to Disability Benefits in accordance with the terms and conditions of the Plan Text.

5. Appeal Process

The method of appointment of the list of Arbitrators shall be as follows:

- Administration will compile a list of qualified individuals who are willing to serve as Arbitrator for Appeal Hearings.

- The list of qualified Arbitrators must be endorsed by the HEBP Board of Trustees.
- Each Arbitrator will be screened for any conflict of interest.

A member who is pursuing an Appeal Hearing shall be provided with the names of two Arbitrators from the list and shall select which of the two named Arbitrators the member wishes to determine their Appeal.

6. Authority

The Decision of the Appeal Arbitrator will be final and binding, subject only to the review provisions of s.44(1) of *The Arbitration Act (Manitoba)*.

7. Appeal Procedures

The procedures regarding the Appeal Hearing are as follows:

Member's Role and Responsibilities

- The member shall, within 60 calendar days of the date of Decision, provide to HEB Manitoba notice of their intention to appeal the Decision made on their claim.
- The member shall, following receipt of the list of Arbitrators, advise HEB Manitoba of their selection within a period of 14 calendar days.
- The member shall cooperate with HEB Manitoba and the Arbitrator in setting a date for the appeal hearing.
- The member shall select either an Appeal Hearing in person or an Appeal Hearing in writing.

HEB Manitoba's Role and Responsibilities

- When communicating the Level 2 Review Decision, HEB Manitoba shall provide to the member:
 - A *Request for Hearing* form
 - The *Member Agreement and Acknowledgement* form
 - The outline of the appeal process
- Upon receipt of a member's completed *Request for Hearing* and *Member Agreement and Acknowledgement* forms (which constitute notice of intention to proceed to an Appeal Hearing), HEB Manitoba shall provide to the member a list of eligible Arbitrators to hear the Appeal Hearing
- Upon receipt of notification of the member's selection of Arbitrator, HEB Manitoba shall co-ordinate with the Arbitrator to determine if there is any conflict of interest and, if none is identified, to arrange for the scheduling of an Appeal Hearing as requested by the member, taking into consideration the number of outstanding appeals.
- HEB Manitoba shall ensure that the member receives notice of the Appeal Hearing date selected.
- HEB Manitoba shall provide the member, and/or their advocate/representative, and the Arbitrator with a Case Summary, including all relevant material and documentation, no later than 14 calendar days prior to the Appeal Hearing date.
- HEB Manitoba shall identify to the member and Arbitrator the issues to be determined.
- HEB Manitoba shall ensure that all matters related to the Appeal Hearing are conducted in a confidential manner.

8. Hearings

At the time a member elects to proceed with an Appeal Hearing, the member shall be required to select either an Appeal Hearing in person or an Appeal Hearing in writing, based upon the Arbitrator's review of the paper file.

An Appeal Hearing in person shall be a *viva voce* hearing based on the file as it existed at the time of HEB Manitoba's final adjudication. The member and representative of HEB Manitoba will be required to attend in person. Each shall be entitled, at their own cost, to the assistance of an advocate, representative, or lawyer/legal counsel. The Arbitrator shall direct the process to be followed at the Appeal Hearing. Any oral evidence submitted is limited to that of the member and a representative of HEB Manitoba and shall be limited to the contents of the member's file as it exists at the date of the final adjudication of the Decision which is now the subject of the Appeal Hearing. No new evidence may be submitted. In addition, the member and HEBP may make oral submissions to the Arbitrator for consideration.

An Appeal Hearing in writing is a paper review without personal attendance. In the event of a paper review, the Arbitrator shall scrutinize the existing records and reports forming the member's files and considered by HEBP at arriving at a decision. In addition, the member and HEB Manitoba may provide written submissions to the Arbitrator for consideration.

All evidence, oral or otherwise, must be relevant in order to merit consideration by the Arbitrator. The Arbitrator may determine relevance at their discretion.

The Arbitrator reserves the right to adjourn an Appeal Hearing at such time as they are satisfied that they have sufficient information to make a decision.

9. Decision

A written decision will be provided by the Arbitrator no later than 30 calendar days from the date the Arbitrator has adjourned the Appeal Hearing.

A Decision is final and binding, subject only to the review process contemplated by s. 44(1) of *The Arbitration Act (Manitoba)*.

The parties to the appeal, and any representatives or legal counsel assisting them, shall maintain confidentiality of the written decision received from the Arbitrator, except for such disclosure as may be required by law.

10. Expenses and Reimbursements

The Arbitrator shall be reasonably compensated by HEB Manitoba for their attendance at the Appeal Hearing and for reasonable expenses incurred as a result of their attendance.

The member shall receive reasonable reimbursement for relevant travel costs incurred as a result of attending an Appeal Hearing.

11. Annual Review

The Terms of Reference are the responsibility of the HEBP Board of Trustees.



More Information

Contact your D&R Claims Specialist with any questions. Please be ready to quote your claim number.

hebmanitoba.ca

Visit hebmanitoba.ca for information about your benefits and to access the member portal.

Member Portal

Log in to the member portal at hebmanitoba.ca. You can use the tools on the member portal to:

- See coverage and premium details for your HEB Manitoba benefits
- Update your personal information
- Report life events to keep your coverage up to date
- View your Annual Statements and other HEB Manitoba documents
- Communicate with us on a secure platform
- And more...

Email

DRinfo@hebmanitoba.ca

Please do not include personal information in your email.

Fax

204-975-1165

Mailing Address

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Winnipeg, Manitoba R3C 4L5

Accessibility

This publication is available in alternate formats on request. To request an alternate format, please email us at accessibility@hebmanitoba.ca.

Telephone

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Toll-free: 1-888-842-4233

Privacy

Direct privacy-related questions, comments, or requests to:

HEB Manitoba Privacy & Policy Office

Phone: 204-975-3197

Toll-free: 1-855-975-3197

Email: privacy@hebmanitoba.ca

You can read our Privacy Notice on our website at hebmanitoba.ca.