

**NUECES COUNTY HOSPITAL DISTRICT
ENROLLMENT DEPARTMENT
POLICY AND PROCEDURE**

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Date of Review:			

Title: ADMINISTRATIVE DISQUALIFICATION HEARINGS AND APPEALS	Policy: E0004
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I. POLICY

Pursuant to Texas Health and Safety Code Ann. §61.066 (Vernon ~~2004~~ **2013**), the Nueces County Hospital District Administration, upon investigation and determination that fraud exists, may administratively disqualify a Nueces County Hospital District Indigent Healthcare Program recipient. Disqualification may occur following an investigation and initial determination which finds the recipient has intentionally made a false and misleading statement; misrepresented, concealed or withheld facts, or has committed any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity in an effort to obtain services or prescription drugs **or medical tests** to which the recipient is not entitled or to receive a greater amount of services or prescription drugs **or medical tests** to which the recipient is not entitled to receive.

Upon timely request, the recipient has the right to an administrative disqualification fair hearing (hereinafter "fair hearing").

The fair hearing to consider appeal of an initial finding of intentional program violation is informal and will not be conducted in a court of law.

II. PURPOSE

The purpose of this policy is to allow administrative disqualification, affirm the recipient's right to a fair hearing following an initial disqualification and to establish guidelines for the fair hearing and any subsequent appeal.

III. RESPONSIBILITY

The Quality Management Committee of the Hospital District's Board of Managers, through the authority delegated by the Board, will provide direction and leadership in establishing and maintaining this policy.

The Board will review and approve or disapprove of any policy adjustments recommended by the Quality Management Committee.

The Hospital District's Administrator, through his/her designee, will administer and enforce this policy.

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IV. RULES & PROCEDURE

A. Notice of Administrative Disqualification and Right To Administrative Disqualification Fair Hearing

1. The Administrative Services Department of the Nueces County Hospital District will send a written "Notice of a Administrative Disqualification and Right to a Fair Hearing", [Attachment 1] advising the recipient that he/she is disqualified from the program and may be required to provide financial restitution to the District.
2. The "Notice of Administrative Disqualification and Right to a Fair Hearing" will contain the information that serves as a basis for the disqualification, advise the recipient of his/her right to a fair hearing to appeal the initial disqualification, and explain the process for requesting this fair hearing, **and advise the recipient of any documents they should provide at the fair hearing.**
3. The "Notice of Administrative Disqualification and Right to a Fair Hearing" shall advise the recipient that he/she has a right to request a fair hearing within thirty (30) days from the effective date of the determination of the initial administrative disqualification. If the recipient requests a fair hearing, one shall be set at a reasonable place and time.
4. If a fair hearing is requested to appeal the initial administrative disqualification, the date, time, and place of the fair hearing will be included in the "Notice of Administrative Disqualification Fair Hearing" [Attachment 2] forwarded to the recipient. The recipient will be allowed to request ~~an~~ **one** alternate hearing date but must do so within seven (7) calendar days from receipt of the "Notice of Administrative Disqualification Fair Hearing."
5. After thirty (30) days have elapsed and the recipient has not requested a fair hearing, the initial administrative disqualification becomes final and the recipient's eligibility is revoked retroactively to the date of the initial administrative disqualification.

B. Administrative Disqualification Fair Hearing Process

1. If a fair hearing is requested to appeal the initial administrative disqualification, a "Statement of Rights" [Attachment 3] and "Request for Alternate Date" [Attachment

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4) will be sent with the "Notice of Administrative Disqualification Fair Hearing". A hearing will be scheduled within thirty (30) days from the date of the notice of request of a fair hearing, or within forty-five (45) days from the date of the "Notice of Administrative Disqualification Fair Hearing" if a request for alternate hearing date is received from the recipient within the prescribed time frame. In no case will the fair hearing to appeal the initial administrative disqualification be set sooner than ten (10) calendar days from the date of the notice of request of a fair hearing. The District will coordinate the date, time, and location of the fair hearing with the hearing officer.

2. A hearing officer will preside over the fair hearing.
3. Formal rules of evidence do not apply to the hearing process. Hearsay evidence is admissible, but will be accorded its proper weight dependent on any guarantees of trustworthiness inherent in the circumstances of the statement. **The burden of proof at the hearing is Preponderance of the Evidence.**
4. The recipient may authorize an individual, such as a relative, friend, or attorney to attend the hearing and serve as the recipient's representative during the fair hearing. The Hospital District will not pay the fees of any individual serving as the recipient's representative.
5. The recipient or the recipient's representative will have the opportunity at the fair hearing to:
 - a. bring witnesses;
 - b. establish all pertinent facts and circumstances;
 - c. present arguments or say anything about the case without undue interference;
 - d. present documentary evidence; and
 - e. question or refute any testimony or evidence, including an opportunity to confront and cross-examine witnesses.
6. The fair hearing will not be open to the public, but may be attended by friends and relatives of the recipient if the recipient so chooses and only to the extent there is available space where the hearing is held.
7. The fair hearing will be recorded by audio tape recorder.

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8. Prior to any fair hearing, the recipient or the recipient's representative will have the opportunity to examine evidence to be used in the hearing if he/she makes an oral or written request to the Hospital District's Administrative Services Department. Copies of evidence may be requested.
9. An interpreter will be provided for the fair hearing, if requested by the recipient or the recipient's representative in writing at least five (5) calendar days before the hearing.
10. If the recipient who requested the fair hearing or his/her representative does not appear for the hearing, the hearing request shall be considered abandoned. However, if circumstances beyond the recipient's control prevented him/her from attending the fair hearing, he/she may make a written request to the hearing officer to reconsider the dismissal and grant a new hearing. The request must be postmarked within ten (10) calendar days of the date of the original hearing and he/she should provide **sufficient** proof of the circumstances beyond his/her control. **Examples of sufficient proof include but are not limited to receipts from a doctor's office, hospital, excuse from a court, statement from a mechanic that the recipient's vehicle was inoperable or similar evidence.**

C. The Hearing Officer: Powers and Duties

1. An attorney in good standing with the State Bar of Texas, assigned by the Hospital District's Administrator will preside as the hearing officer over the fair hearings. The Hospital District will compensate the hearing officer, as set by the District's Board. The hearing officer will be compensated not less than twenty (20) calendar days after issuing the written hearing decision.
2. The hearing officer will administer oaths or affirmations to all witnesses who testify at the fair hearing.
3. The hearing officer will ensure that all relevant issues are considered.
4. The hearing officer will request, receive, and make part of the record all information he/she deems necessary to issue a decision on the information presented.
5. The hearing officer will regulate the conduct and course of the fair hearing following due process to ensure an orderly fair hearing.

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6. The hearing officer will make a written record of the hearing decision [Attachment 5]. The fair hearing decision will state the reasons for his/her determination and indicate the evidence he/she relied upon.

D. Notice of the Hearing Officer's Decision

The hearing officer will send a written notice to the recipient and the Hospital District advising the recipient and the Hospital District of his/her decision and the reason(s) for that decision [Attachment 6]. The notice will be sent not more than fifteen (15) calendar days after conclusion of the fair hearing to appeal administrative disqualification.

The written decision by the hearing officer will be in English. The Hospital District will provide a translated cover sheet for fair hearing decisions where an interpreter was used during the fair hearing. The cover sheet will include a brief translated statement of the hearing officer's decision and instruct the recipient to contact the hearing officer if he/she needs assistance to understand the decision. A telephone number and physical address for the hearing officer will be provided in the fair hearing decision.

E. Disqualification Review Committee

1. The Hospital District Board's Quality Management Committee will serve as the Disqualification Review Committee to review and evaluate requests for appeal of the decision of the fair hearing.
2. The Chair of the Quality Management Committee will serve as the Chair of the Disqualification Review Committee and preside over appeal of the decision of the fair hearing. In the event the Chair of the Quality Management Committee is unable to serve as Chair of the Disqualification Review Committee, the Chairman of the Board will designate another committee member to serve as Chairman.
3. In the event the Quality Management Committee is unable to establish a quorum in a timely manner to review and evaluate a fair hearing decision, the Chairman of the Board shall appoint three (3) members of the Hospital District's Board of Managers to serve as an Ad Hoc Committee to review and evaluate that fair hearing decision. The Chairman of the Board shall designate a Chairman for the Ad Hoc Committee.

F. Appeal from Administrative Disqualification Fair Hearing Process

1. The recipient is entitled to request an administrative appeal of the hearing officer's decision within fifteen (15) calendar days of the date of that decision.

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2. If a written request for an administrative appeal has been received from the recipient, the hearing officer will submit the record of the fair hearing and his/her written decision to the Chair of the Disqualification Review Committee.
3. The fair hearing record will consist of audio tape recordings of the hearing and all exhibits admitted at the hearing. No additional information may be submitted.
4. The Chair of the Disqualification Review Committee will establish a meeting date, time and location for review of the appeal, which will not be more than sixty (60) calendar days from the concluding date of the fair hearing. **The meeting of the Disqualification Review Committee is not subject to the Open Meetings Act and will not be open to the public.**
5. After review and discussion of the record relating to the fair hearing and decision, the Disqualification Review Committee may affirm, modify, or reverse the finding of the hearing officer. The Review Committee will issue a written decision not more than fifteen (15) calendar days from the date of the Review Committee meeting (Attachment 7). The recipient will receive a written copy of the Committee's decision.
6. The Disqualification Review Committee's Decision is final.

G. Program Disqualification Periods Resulting From Initial Administrative Disqualification, Administrative Disqualification Fair Hearing Decision or Disqualification Review Committee Decision

Upon initial administrative disqualification, or a decision of any fair hearing issued by the hearing officer or a decision of the Disqualification Review Committee or an Ad Hoc Committee, resulting in disqualification of the recipient from the Program, the recipient **will shall** be disqualified from participating in the Program as follows:

1. One (1) year disqualification from the date of the initial administrative disqualification for the first (1st) violation.
2. Two (2) years disqualification from the date of the initial administrative disqualification for the second (2nd) violation.
3. Permanent disqualification for the third (3rd) violation.

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H. Collection of Public Funds Resulting From Decision of Initial Administrative Disqualification, Decision of Administrative Disqualification Fair Hearing or Disqualification Review Committee Decision

Upon initial administrative disqualification, or a decision of any fair hearing issued by the hearing officer or a decision of the Disqualification Review Committee, resulting in disqualification of the recipient from the Program, the Hospital District may collect the amount of public funds attributable to Program services received by the recipient during the period for which the decision is based. The District may collect the funds from the recipient in one or more of the following ways:

1. **Cash repayment:** The entire amount owed is collected in one lump-sum payment.
2. **Installment payments:** If the recipient is unable to pay the amount owed in one payment, the Hospital District may establish a schedule of regular monthly payments. Payments will be set at a level that results in repayment as soon as possible, but not to exceed three (3) years [Attachment 8].
3. The Hospital District may enter into an agreement with recipient to conditionally reduce the amount due and payable as part of an agreement to repay the debt owed. However, if the recipient fails to perform as agreed by paying all payments according to the repayment schedule, the full amount of the debt will become immediately due and payable.
4. The Hospital District's Administrator is authorized to enforce collection of the funds due the District through any legal means, including the use of liens and civil or criminal court action.

**REDLINE VERSION: Deletions in Red
Additions in Blue**

**NUECES COUNTY HOSPITAL DISTRICT
ADMINISTRATIVE DISQUALIFICATION HEARINGS AND APPEALS
(Notice of Administrative Disqualification And Right To Fair Hearing)
Policy: ED004
ATTACHMENT 1**

Date:
Case No.:
Name of Hearing Officer:

RE: (Name of Recipient)

NOTICE OF ADMINISTRATIVE DISQUALIFICATION AND RIGHT TO A FAIR HEARING

It has been determined that you have committed an intentional violation of the rules governing the Nueces County Hospital District's Indigent Healthcare Program. You will be disqualified from receiving NCHD assistance:

_____ for 12 months _____ for 24 months _____ permanently

The basis for this disqualification is that you: (State intentional rule violation)

Evidence supporting this determination consists of: (State how the rule was intentionally violated)

Policy Violated: (List all policies violated)

Disqualification Effective Date:

This decision allows the Nueces County Hospital District to expect ~~repayment~~ **payment**, in cash, of the value of any benefits your household was not eligible to receive. You will be notified of the effect this action will have, on the benefits received by any other member(s) of your household.

You have the right to appeal this decision by requesting a Fair Hearing within thirty (30) days of the date of this notice.

If you request a Fair Hearing, the Hearing Officer may affirm, modify or reverse your disqualification and will issue a written decision to you not more than fifteen (15) calendar days from the date of the Fair Hearing.

If you elect to appeal your disqualification by requesting a Fair Hearing, a hearing will be set for a reasonable date, time, and place. You will receive a "Notice of Administrative Disqualification Fair Hearing" with the date, time and place of the hearing. If there is a good reason why you cannot come at that time, you may ask that the hearing be changed. You must ask for any change in hearing date within seven (7) calendar days of receipt of "Notice of Administrative Disqualification Fair Hearing". You will also receive a "Statement of Rights in Hearing Proceedings" explaining the hearing process. **You may be expected to bring certain documents requested by the Nueces County Hospital District to the hearing.** At the hearing, you may present your own case, or you may bring a friend, relative, other spokesman, or

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ATTACHMENT 1**

lawyer to present your case for you. If you bring a lawyer, the Nueces County Hospital District does not pay his/her fees.

If you do not request a Fair Hearing within thirty (30) days, your eligibility will be revoked on the disqualification effective date listed above.

You may request the Fair Hearing by signing this notice below and submitting it to the Nueces County Hospital District Administrative Services Office within thirty (30) days of the date of this notice or you may submit your own written request.

Signature- Hospital District Representative

Sign below if you wish to appeal the Administrative Disqualification on the preceding page and return this letter (or submit your own written request) to the address listed below within thirty (30) days of the date on this notice.

Signature of Recipient

Date

**Return form to: Nueces County Hospital District
Administrative Services Department
Attn: Disqualification Hearings
555 North Carancahua, Suite 950
Corpus Christi, Texas ~~78478-0002~~ 78401-0835**

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Additions in Blue**



**NUECES COUNTY HOSPITAL DISTRICT
ADMINISTRATIVE DISQUALIFICATION HEARINGS AND APPEALS
(Repayment Agreement)
Policy: ED004
ATTACHMENT 8**

Nueces County Hospital District
555 North Carancahua, Suite 950
Corpus Christi, Texas ~~78478-0002~~ 78401-0835
(361) 808-3300

REPAYMENT PAYMENT AGREEMENT

This document constitutes a binding contractual agreement between Nueces County Hospital District and _____.

In consideration for Nueces County Hospital District's forbearance from immediately filing and aggressively pursuing a civil fraud lawsuit, _____ agrees to repay the sum of \$ _____, which constitutes the value of healthcare goods and/or services rendered to _____ by Nueces County Hospital District during the period _____ to _____.

I (We), _____, agree to repay the total amount of \$ _____ at the rate of \$ _____ per month, on or by the _____ of each month, with the first payment due and payable on _____. Monthly payments shall continue until the entire balance has been paid in full.

I understand that if in the future I cannot timely make a monthly payment, I must so notify Nueces County Hospital District in writing, at the mailing address specified for sending payments, before the payment due date.

Payments are to be mailed to:

Nueces County Hospital District
Financial Department
555 N. Carancahua, Suite 950
Corpus Christi, TX ~~78478~~ 78401-0835

It is noted and agreed that if payments are not received in a timely manner according to the repayment schedule, this agreement will be considered in default. It is further noted that if I (we) fail to perform as agreed by missing any payment required by this repayment agreement, the full amount of \$ _____ (less any amounts previously paid) will become immediately due and payable. I (we) further understand that collection action may be taken against me (us), which may include negative reports to Credit Bureaus and lawsuits to collect the balance due, among other remedies available at law.

THE AMOUNT DUE CONSTITUTES A DEBT WHICH MUST BE TIMELY REPAYED IN ITS ENTIRETY.

Client Signature

Date

Client Signature

Date

NCHD Representative Signature

Date