

DMEPOS Appeals Procedure

This document sets forth key components of the process for DMEPOS suppliers to appeal the NABP decision to either deny accreditation or temporarily suspend a DMEPOS supplier from the accreditation program. This document is for review purposes only and is not binding upon NABP or the DMEPOS supplier. The official DMEPOS Appeal Procedure is incorporated into the DMEPOS Letter of Agreement, which will be provided by NABP upon request.

Procedure

1. In the event that NABP denies initial accreditation to a DMEPOS supplier or temporarily suspends a DMEPOS supplier from the accreditation program, the DMEPOS supplier may appeal the decision of NABP.
2. Provided all fees and expenses invoiced by NABP have been paid, the DMEPOS supplier may file a written Notice of Appeal with the Executive Director/Secretary of NABP within thirty (30) days of the date of the notice of denial or temporary suspension. Such Notice of Appeal shall set forth the specific facts supporting the grounds on which the appeal is based.
3. The DMEPOS supplier agrees to submit with its Notice of Appeal the then-current administrative fee for the appeal hearing. Any costs incurred to convene the DMEPOS Appellate Commission and host the hearing will be invoiced to the DMEPOS supplier.
4. If the written Notice of Appeal and required fee payment are not received by NABP within the designated time period, the temporary suspension converts to disqualification from the DMEPOS accreditation program with no further rights to internal appeal, and the Letter of Agreement shall be terminated.
5. Not more than sixty (60) days from receipt of a Notice of Appeal, NABP shall convene the DMEPOS Appellate Commission, which shall consist of the Chairperson, President, and President-Elect of NABP.
6. As part of the DMEPOS supplier's appeal, the DMEPOS supplier may request an audit of its compliance with DMEPOS Accreditation Program Criteria and/or the Letter of Agreement. If the DMEPOS supplier requests an audit, an additional fee shall be submitted that will be applied to the costs of performing the audit. The DMEPOS supplier agrees to pay the then-current audit fee, including any on-site survey fee, as defined by NABP policy. NABP agrees to conduct such an audit at the DMEPOS supplier's expense. A written report of the audit findings will be provided to the DMEPOS supplier, NABP, and members of the Appellate Commission.
7. Unless otherwise agreed by the parties, the Appellate Commission shall set a date, time, and place for a hearing on the appeal not more than sixty (60) days from the date of the convening of the Appellate Commission or the date after the audit is concluded, whichever may be applicable.
8. NABP and the appealing party shall have the right to representation by counsel throughout the appeal procedure.

9. Failure of the appealing party to pay all of the Appellate Commission's reasonable expenses and, as applicable, audit fee, in full, within seven (7) days of the date of the bill or invoice shall result in termination of the appeals procedure, disqualification of the appealing party from the DMEPOS program, and termination of the Letter of Agreement.
10. In the event that any person designated as a member of the Appellate Commission shall be disqualified or shall refuse or be unable to serve for any reason at any time, an alternate member shall be selected by the remaining members of the Appellate Commission. The member's service and affiliation with NABP, the NABP Executive Committee, and the Appellate Commission shall not be grounds for disqualification based upon claims of conflict of interest, bias, or the like.
11. Unless otherwise agreed to by the parties not less than ten (10) days before the hearing, the appealing party and NABP shall present written statements of their respective positions to the Appellate Commission.
12. Each party may present evidence at the hearing.
13. Unless otherwise agreed to by the parties, closing arguments shall be submitted to the Appellate Commission within fourteen (14) days of the conclusion of the hearing.
14. Within an additional sixty (60) days thereafter, the Appellate Commission shall render a decision to:
 - a. Affirm the decision of NABP;
 - b. Reverse the decision of NABP and not disqualify the DMEPOS supplier from the DMEPOS program;
 - c. Continue the suspension of the DMEPOS supplier's accreditation and establish requirements for reinstatement of accreditation; or
 - d. Take the action the Appellate Commission deems appropriate based upon its findings.
15. The Appellate Commission shall convey its findings and decision to the Executive Director/Secretary of NABP, who will prepare a written report, on behalf of the Appellate Commission, setting forth the Commission's findings and decision. The Executive Director/Secretary will provide a copy of the report to the Appellant, Appellate Commission members, and NABP counsel.
16. The decision of the Appellate Commission, as ratified by the NABP Executive Committee, is final.
17. The DMEPOS supplier has no further rights to internal appeal after the Appellate Commission has rendered a decision.