APPEAL OF VETERANS HEALTH ADMINISTRATION CLINICAL DECISIONS

1. REASON FOR ISSUE: This Veterans Health Administration (VHA) directive communicates the policy and responsibilities for handling appeals of medical determinations, referred to as clinical appeals.

2. SUMMARY OF MAJOR CHANGES:

a. **Amendment dated March 4, 2025,** removes paragraph 2.d. titled, "Transgender" to comply with EO 14168.

b. **Amendment dated December 27, 2024,** adds contact information for VHA's Claims and Appeals Modernization Office (VHABenefitAppeals@va.gov) and removed outdated language (paragraph 2.e. Women's Health).

c. **As published September 28, 2020**, this directive updated VHA policy governing appeals of medical determinations. Additionally, it conferred clinical appeal decision-making authority upon the Department of Veterans Affairs (VA) medical facility Chief of Staff (COS) and the Veterans Integrated Service Network (VISN) Chief Medical Officer (CMO) at their respective levels.

3. RELATED ISSUES: None.

4. RESPONSIBLE OFFICE: The Office of the Assistant Under Secretary for Health for Clinical Operations is responsible for the contents of this directive. Questions may be referred to the Assistant Under Secretary for Health for Clinical Services at 202-461-7026, the Office of Patient Advocacy at 202-461-7067, or VHA's Claims and Appeals Modernization Office at VHABenefitAppeals@va.gov.

5. RESCISSIONS: VHA Directive 1041, Appeal of VHA Clinical Decisions, dated October 24, 2016; and 10N Memorandum, Appeal of Clinical Decisions in the Program of Comprehensive Assistance for Family Caregivers, July 31, 2017, are rescinded.

6. RECERTIFICATION: This VHA directive is scheduled for recertification on or before the last working day of September 2025. This VHA directive will continue to serve as national VHA policy until it is recertified or rescinded.

BY DIRECTION OF THE OFFICE OF
THE UNDER SECRETARY FOR HEALTH:

/s/ Kameron Matthews, MD, JD

Assistant Under Secretary for
Health for Clinical Operations

DISTRIBUTION: Emailed to the VHA Publications Distribution List on September 28, 2020.

NOTE: *All references herein to VA and VHA documents incorporate by reference subsequent VA and VHA documents on the same or similar subject matter*.

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APPEAL OF VETERANS HEALTH ADMINISTRATION CLINICAL DECISIONS

1. PURPOSE

This Veterans Health Administration (VHA) directive sets forth the policy and responsibilities for handling appeals of medical determinations (i.e., clinical appeals), as defined below. It does not apply to appeals of benefits decisions that are subject to higher level review, supplemental claim, or appealable to the Board of Veterans' Appeals (see VHA Directive 1032, Health Benefit Appeals Processing, dated August 16, 2013). **AUTHORITY:** Title 38 United States Code (U.S.C.) § 1703(f), § 1720G(c)(1) and § 7301(b); 38 Code of Federal Regulations (C.F.R.) § 20.104(b).

2. PROGRAM SPECIFIC CONSIDERATIONS

a. **Community Care.** Decisions concerning eligibility for community care under the Veterans Community Care Program (VCCP) pursuant to 38 U.S.C. § 1703(d) and (e) are, by law, medical determinations and are subject to the clinical appeal process described in this directive. For more information, see 38 U.S.C. § 1703(f). Eligibility decisions determine whether the Veteran can elect to receive care in the community; not what care will be provided. ***NOTE:*** *For specific questions about VCCP appeals, please contact VHA13Action@va.gov.*

b. **Caregivers.** Decisions under the Program of Comprehensive Assistance for Family Caregivers and the Program of General Caregiver Support Services affecting the furnishing of assistance or support are, by law, medical determinations and are subject to the clinical appeal process as outlined in this directive. For more information, see 38 U.S.C. §1720G(c)(1). Appeals of decisions under the Program of Comprehensive Assistance for Family Caregivers (PCAFC) follow a unique process, which is outlined in Appendix G, VHA Clinical Appeals Process for PCAFC. ***NOTE:*** *For specific questions about PCACF appeals, please contact VHACaregiverStaff@va.gov.*

c. **Dental Care.** Appeals of medical determinations related to dental procedures only apply to Veterans who are eligible for dental services. Dental care eligibility is specified under 38 U.S.C. § 1710(c) and § 1712 and C.F.R. § 17.160-17.166 and disputes regarding eligibility for dental care can be appealed through the Board of Veterans Appeals. See VHA Directive 1130, Veterans Health Administration Dental Program, dated March 6, 2020 and VHA Handbook 1130.01(1), Veterans Health Administration Dental Program, dated February 11, 2013.

3. DEFINITIONS

a. **Clinical Appeal.** A clinical appeal is a written request for higher review of one or more medical determinations. Patients or their surrogates may file a clinical appeal through the Patient Advocate (PA) at the VA medical facility if the patient and original decision maker or clinical team are unable to resolve the clinical dispute(s) at the point of the original decision. After an appeal is adjudicated at the facility level, the patient may submit a second level appeal to the Veterans Integrated Service Network (VISN) Patient Advocate Coordinator (VPAC) for a final review by the VISN. For patients or

their surrogates seeking to appeal orally, the PA or VPAC, as appropriate, will assist the patient or surrogate with putting the clinical appeal in writing.

b. **Clinical Dispute.** A clinical dispute is a disagreement between a patient, or the patient's surrogate, and the original decision maker or clinical team who made the medical determination with which the patient or surrogate disagrees.

c. **External Review.** An external review is an evaluation of a medical determination that is conducted by a non-VA, third-party reviewer and arranged by the Office of Clinical Risk Management, Office of Quality and Patient Safety. See VHA Directive 1190, Peer Review for Quality Management, dated November 21, 2018.

d. **Medical Determination.** A medical determination includes: (1) a decision by an appropriate health care professional based on their medical judgment that care is needed to promote, preserve, or restore the health of the individual, as those terms are defined in 38 C.F.R. § 17.38(b), and is in accord with generally accepted standards of medical practice; (2) a decision by an appropriate health care professional based on their medical judgment that specific types of medical care and treatment for an individual are needed and appropriate, to include pre-authorization decisions; (3) a decision under 38 U.S.C. § 1703(d) and (e) concerning eligibility for community care under the Veterans Community Care Program (see 38 U.S.C. § 1703(f)); and (4) a decision under the Program of Comprehensive Assistance for Family Caregivers or the Program of General Caregiver Support Services (see 38 U.S.C. § 1720G(c)(1)). Specific examples of medical determinations include, but are not limited to, whether a particular drug should be prescribed, whether a specific type of physiotherapy should be ordered, and similar judgmental treatment decisions with which an attending physician may be faced (see 38 C.F.R. § 20.104(b)).

e. **Patient Advocate Tracking System.** The Patient Advocate Tracking System (PATS), or subsequent software system, is a VHA-wide computer application that tracks patient complaints, compliments and other key program data at each VA medical facility. PATS is the system of record for clinical appeals at the VA medical facility and VISN.

f. **Re-evaluation.** A re-evaluation is a re-examination of the patient's current medical condition or eligibility that is completed by the original decision maker or designee. Re-evaluations are conducted after receipt of a clinical appeal when the submitted appeal requests new information, that is now available since the initial decision, be considered, or when the appeal is received by the PA or VPAC 60 or more calendar days after the original decision was made. If the clinical dispute is not resolved after a re-evaluation is completed, the appeal will continue.

g. **Surrogate Decision Maker ("Surrogate").** A surrogate is the individual or entity legally authorized to make health care decisions on behalf of a patient who lacks decision-making capacity, as specified in VHA Handbook 1004.01(3), Informed Consent for Clinical Treatments and Procedures, dated August 14, 2009. This definition does not include a representative of a Veterans Service Organization, a claims agent, or

attorney, unless such an individual is the surrogate decision maker as specified in VHA Handbook 1004.01(3). Requirements in this governing patient rights and responsibilities apply equally to surrogates. ***NOTE:*** *For more guidance, please see VHA Handbook 1004.02, Advance Care Planning and Management of Advance Directives, dated December 24, 2013.*

4. POLICY

a. It is VHA policy that VA employees follow procedures and timelines established in this directive to ensure that clinical appeals are processed and decided in a fair, impartial and timely manner to promote, preserve, or restore the health of veterans. Employees should make every effort to resolve disputes at the lowest level possible.

b. Clinical appeals regarding decisions under 38 U.S.C. § 1703(d) and (e) concerning eligibility for community care under the Veterans Community Care Program will be adjudicated and decisions communicated to the person(s) submitting the appeal within 3 business days of receipt by the VA medical facility PA or VPAC. All other clinical appeals will be adjudicated, and decisions communicated to the person(s) submitting the appeal within 45 business days of receipt by the PA or VPAC, except in instances where an external review is necessary. If an external review is necessary for any appeal at the VISN, adjudication and communication must occur no more than 60 business days from the date the VPAC received the appeal. The VISN must provide updates to the person(s) submitting the appeal if the appeal requires an extended timeframe beyond the 45 business days.

5. VA MEDICAL FACILITY CLINICAL APPEALS PROCESS

c. **VA Medical Facility Intake of Appeal.**

(1) A patient initiates a clinical appeal in writing through the Patient Advocate (PA).

(2) Upon receipt of the appeal, the PA reviews the appeal request to determine if the matter involves a clinical dispute as defined in paragraph 3, Definitions.

(a) If the matter does not involve a clinical dispute, the PA will refer the patient to the individual, office, or clinic responsible for investigating and resolving the dispute and log the complaint into PATS as appropriate.

(b) If the matter involves a clinical dispute, the PA will open an appeal case in PATS, which will begin the clinical appeal process.

(c) If the matter involves a clinical dispute concerning a decision under 38 U.S.C. § 1720G(a) affecting the furnishing of assistance or support under the Program of Comprehensive Assistance for Family Caregivers, the PA will follow the process set forth in Appendix G, VHA Clinical Appeals Process for PCAFC.

(d) If the matter involves a clinical dispute, but the original decision maker did not have the opportunity to resolve the clinical dispute with the patient, the PA will refer the

dispute back to the original decision maker or clinical team to work with the patient to attempt to resolve the dispute. If the dispute is resolved, no further review is needed, the PA codes and closes the appeal in PATS, sends a closure letter to the person(s) who submitted the appeal (see Appendix F) and uploads a copy of letter into PATS. If the dispute is not resolved, the appeal continues.

(e) If the matter involves a clinical dispute, but the patient requests new clinical information to be considered, the PA initiates a request in PATS for a re-evaluation by the original decision maker or clinical team and informs the patient. If the dispute is resolved pursuant to the re-evaluation, no further review is needed, the original decision maker or clinical team documents the decision and discussion with patient in PATS, returns the request to the PA who then codes and closes the appeal in PATS, sends a closure letter to the person(s) who submitted the original appeal (see Appendix F) and uploads a copy of letter into PATS. If the dispute is not resolved pursuant to the re-evaluation, the appeal continues.

(f) If the matter involves a clinical dispute, but the PA receives the written appeal 60 or more calendar days from the date of the original decision or previous clinical appeal decision, the PA will initiate a request in PATS for a re-evaluation by the original decision maker or clinical team and inform the patient. If the dispute is resolved pursuant to the re-evaluation no further review is needed, the original decision maker or clinical team documents the decision and discussion with the patient in PATS, returns the request to the PA who then codes and closes the appeal in PATS, sends a closure letter to the person(s) who submitted the appeal (see Appendix F) and uploads copy of letter into PATS. If the dispute is not resolved pursuant to the re-evaluation, the appeal continues.

(3) On the (business) day the written appeal is received by the PA and determining an clinical appeal will be processed the PA prepares and mails (optional for VCCP eligibility appeals when a decision is required within 3 business days), a Notice of Receipt of Clinical Appeal Letter (Appendix A) to the person(s) who submitted the appeal and uploads a copy of letter into PATS. The PA enters the appeal in PATS and sends the appeal to the Chief of Staff for review. ***Exception*:** If the appeal is regarding a decision made by the Chief of Staff (COS) (e.g., when the COS is the clinical provider to the patient), the PA will inform the VA medical director and send the appeal to the VISN for adjudication (see paragraph 6, a.(2)(b)).

d. **VA Medical Facility Review of Appeal.**

(1) Upon receipt of the appeal, the VA medical facility Chief of Staff (COS) will review the appeal and relevant clinical records to determine if a Subject Matter Expert (SME) or Multi-disciplinary Team (MDT) review is necessary.

(a) If SME input is required, COS seeks input from the appropriate SME(s) and decides if MDT review is needed.

(b) If MDT review is necessary, the COS identifies the MDT chair/members and

forwards the appeal to the MDT for review. The MDT reviews the appeal and relevant clinical records, then submits their recommendation using the VA Clinical Appeal Decision Memorandum (Appendix B) to the COS. The COS reviews the recommendation and seeks any needed clarification.

(2) If no SME or MDT input is needed or SME or MDT input has been provided, the COS decides the appeal, either drafts or finalizes the VA Clinical Appeal Decision Memorandum (Appendix B) and forwards the completed memorandum to the Director for preparation of a VA Medical Facility Clinical Appeal Decision Letter (Appendix C).

c. **VA Medical Facility Closing of Appeal.**

(1) Upon receipt of a VA Clinical Appeal Decision Memorandum (Appendix B), the VA medical facility Director ensures the VA Medical Facility Clinical Appeal Decision Letter (Appendix C) is prepared, signed, mailed to the patient and all final documents are entered into PATS.

(2) The COS ensures documentation of the appeal decision in the patient's Electronic Health Record (EHR) under the progress note titled: Clinical Appeal Decision.

(3) The COS ensures the patient is contacted by his or her preferred method of communication, if other than letter, by the appropriate point of contact.

(4) Upon receiving all final documents in PATS, the appeal is returned to the PA, who then codes and closes the appeal according to requirements outlined in VHA Directive 1003.04 VHA Patient Advocacy, dated February 7, 2018.

(5) If the person(s) who submitted the appeal withdraws the appeal request by contacting the PA prior to the COS issuing the VA Clinical Appeal Decision Memorandum (see Appendix B), the appeal will be closed noting the withdrawal and a closure letter (see Appendix F) will be sent to the person(s). The PA will code and close the appeal case in PATS.

6. VISN CLINICAL APPEAL PROCESS

a. **VISN Intake of Appeal.**

(1) The patient initiates a VISN appeal by submitting an appeal in writing to the VPAC. A VISN appeal can also be initiated upon referral from the PA at the VA medical facility

(2) Upon receipt of the VISN appeal, the VPAC reviews the appeal to determine:

(a) If the appeal was adjudicated at the VA medical facility level. If so, the VPAC opens an appeal case in PATS, uploads the written appeal to begin the appeal process and makes the VAMC PA aware that an appeal has been received.

(b) If the appeal was not previously adjudicated, the VPAC returns the unadjudicated

appeal to the facility for adjudication, as described in paragraph 5. ***Exception:*** VPAC retains a first level appeal where the patient is appealing a decision of the COS, (e.g., when the COS is the clinical provider to the patient). For a second level appeal involving a COS decision, the VPAC will send the appeal to the VPAC in an alternate VISN for adjudication and closure following the same process in this paragraph 6.

(c) If the matter involves a clinical dispute over decision under 38 U.S.C. § 1720G(a) affecting the furnishing of assistance or support under the Program of Comprehensive Assistance for Family Caregivers, the VPAC will follow the process set forth in Appendix G, VHA Clinical Appeals Process for PCAFC.

(d) If the patient requests new clinical information be considered, the VPAC initiates a request for a re-evaluation by the local original decision maker or clinical team and informs the patient. If the dispute is resolved pursuant to the re-evaluation, no further review is needed, the VPAC codes and closes the appeal in PATS, sends a closure letter to the person(s) who submitted the appeal (Appendix F) and uploads a copy of letter into PATS. If the dispute is not resolved pursuant to the re-evaluation, the appeal continues.

(e) If the VPAC receives the appeal 60 or more calendar days after the date of the previous appeal decision, the VPAC will initiate a request for a re-evaluation by the original decision maker or local clinical team and inform the patient. If the dispute is resolved pursuant to the re-evaluation, no further review is needed, the VPAC codes and closes the appeal in PATS, sends a closure letter to the person(s) who submitted the appeal (Appendix F) and uploads copy of letter into PATS. If the dispute is not resolved pursuant to the re-evaluation, the appeal continues.

(3) On the (business) day the appeal is received, the VPAC prepares and mails (optional for VCCP eligibility appeals when a decision is required within 3 business days), a Notice of Receipt of Clinical Appeal Letter (Appendix A) and uploads a copy into PATS. The VPAC enters the appeal in PATS and sends the appeal to the CMO for review.

b. **VISN Review of Appeal.**

(1) Upon receipt of the appeal, the CMO reviews the written appeal and relevant clinical information to determine if SME and/or MDT review is necessary.

(a) If SME input is required, the CMO receives input from the appropriate SME(s).

(b) If MDT review is necessary, the CMO identifies the MDT chair and members and forwards the appeal to the MDT for review. The MDT reviews the appeal and relevant clinical records, then submits their recommendation using the VA Clinical Appeal Decision Memorandum (Appendix B) to the CMO. The CMO reviews the recommendation, seeks any needed clarification and decides if an external review is needed. External review is only pursued after an MDT review and recommendation.

(c) If an external review is necessary after the MDT review is complete, the CMO will

contact the Director, Clinical Risk Management, VHA Office of Quality and Patient Safety, at VHA10E1HRiskManagementStaff@va.gov to coordinate the review. The CMO will ensure the person(s) who submitted the appeal is notified if additional time beyond the 45 business days is needed, to complete the appeal. The CMO receives the recommendations from the external review within 30 business days. The appeal will be completed no more than 60 business days of receipt by the VPAC.

(2) If SME, MDT, or external review is not necessary or SME, MDT, or external review is complete, the CMO decides the appeal, either drafts or finalizes the VA Clinical Appeal Decision Memorandum (Appendix B), and forwards the completed memorandum to the Director for preparation of a VISN Clinical Appeal Decision Letter (Appendix D).

c. **VISN Closing of Appeal.**

(1) Upon receipt of a VA Clinical Appeal Decision Memorandum (Appendix B), the VISN Director ensures the VISN Clinical Appeal Decision Letter (Appendix D) is prepared, signed, mailed to the patient, and ensures all final documents are entered into PATS.

(2) The CMO ensures documentation of the appeal decision in the patient's EHR under the progress note titled: Clinical Appeal Decision.

(3) The CMO ensures the patient is contacted by their preferred method of communication, if other than letter, by the appropriate point of contact.

(4) Upon receiving all final documents in PATS, the VPAC codes and closes the appeal and informs the VA medical facility COS and PA of the decision.

(5) If the person(s) who submitted the appeal withdraws the appeal request by contacting the VPAC prior to the CMO issuing the VA Clinical Appeal Decision Memorandum (see Appendix B), the appeal will be closed noting the withdrawal and a Closure Letter (see Appendix F) will be sent to the person(s). The VPAC will code the and close the appeal case in PATS.

7. RESPONSIBILITIES

a. **Under Secretary for Health.** The Under Secretary for Health is responsible for ensuring overall VHA compliance with this directive.

b. **Assistant Under Secretary for Health for Clinical Operations.** The Assistant Under Secretary for Health for Clinical Operations is responsible for ensuring overall programmatic implementation of this directive.

c. **Assistant Under Secretary for Health for Operations.** The Assistant Under Secretary for Health for Operations is responsible for:

(1) Communicating the contents of this directive to each of the VISNs.

(2) Providing assistance to VISN Directors to resolve implementation and compliance challenges in the VISN and all VA medical facilities within that VISN.

(3) Overseeing VISNs to ensure compliance with this directive, relevant clinical standards, and applicable statutes and regulations.

(4) Ensuring training is developed on the clinical appeals process for VA medical facility Chiefs of Staff and VISN Chief Medical Officers. ***NOTE:*** *See paragraphs 5 and 6 for more information on the specific clinical appeals process and paragraph 8 for more information on training associated with this directive.*

d. **Assistant Under Secretary for Health for Risk Management.** The Assistant Under Secretary for Health for Risk Management is responsible for:

(1) Arranging external reviews (VHA Directive 1190, Peer Review for Quality Management).

(2) Providing the requesting CMO written recommendations within 30 business days of receipt of the request for external review

e. **Assistant Under Secretary for Health for Patient Care Services.** The Assistant Under Secretary for Health for Patient Care Services is responsible for ensuring the Executive Director, Care Management and Social Work and the Caregivers Support Program fulfill their responsibilities under this directive.

f. **Assistant Under Secretary for Health for Community Care.** The Assistant Under Secretary for Health for Community Care is responsible for ensuring the Office of Community Care (OCC) develops training in partnership with the Caregiver Support Program and the Office of Patient Advocacy on the clinical appeals process for PAs and VPACs.

g. **Executive Director, Office of Patient Advocacy.** The Executive Director of the Office of Patient Advocacy is responsible for:

(1) Monitoring national PATS data reports for trending purposes.

(2) Developing training in partnership with Caregiver Support Program and OCC on the clinical appeals process for PAs and VPACs.

h. **Executive Director, Care Management and Social Work.** The Executive Director, Care Management and Social Work is responsible for developing training on the clinical appeals process for PCAFC outlined in Appendix G.

e. **Veterans Integrated Service Network Director.** The VISN Director is responsible for:

(1) Ensuring the clinical appeals process established by this directive is implemented at the VISN level.

(2) Ensuring that each VA medical facility within the VISN implements the clinical appeal process established by this directive.

(3) Timely and accurate completion of all tasks assigned to the VISN Director under paragraph 6, VISN Clinical Appeal Process, and Appendix G, VHA Clinical Appeals Process for PCAFC.

f. **Veterans Integrated Service Network Chief Medical Officer.** The VISN Chief Medical Officer (CMO) is responsible for:

(1) Ensuring all clinical activities in paragraph 6, VISN Clinical Appeal Process, and Appendix G, VHA Clinical Appeals Process for PCAFC, including tasks assigned to the VISN CMO, are completed accurately and within the stated timeframes. This includes the CEAT activities in Appendix G.

(2) Ensuring each CEAT meets the minimum staffing requirements set forth in paragraph 7.i.

(3) If delegating decision-making authority for the VISN CMO responsibilities, ensuring that the designee is an appropriate clinician (e.g., Deputy CMO, Clinical Service Line Leader). The VISN CMO is responsible for informing all individuals involved in the VISN's clinical appeals process of any such delegation. Any clinician delegated the responsibilities of the VISN CMO is responsible for timely and accurate completion of all tasks assigned to the VISN CMO in paragraph 6, VISN Clinical Appeal Process, and Appendix G, VHA Clinical Appeals Process for PCAFC. Any reference in this directive to the responsibilities of the VISN CMO shall also be considered a reference to the VISN CMO's designee. Delegation by the VISN CMO may not be further re-delegated by the designee.

(4) Ensuring that the safety and medical condition of the patient is considered, and the clinical appeals process is expedited as needed.

g. **Veterans Integrated Service Network Patient Advocate Coordinator.** The VPAC is responsible for:

(1) Ensuring timely and accurate completion of all tasks assigned the VPAC under paragraph 6, VISN Clinical Appeal Process, and Appendix G, VHA Clinical Appeals Process for PCAFC.

(2) Serving as the initial and primary point of contact for patients during the clinical appeals process at the VISN level and responding to questions the patient may have about the appeals process at the VISN level. Educating the patient verbally or in writing on the clinical appeals process, including timelines.

(3) Ensuring a record of communications in PATS.

(4) Communicating status updates about the appeal process to the patient in accordance with this directive and as requested.

(5) Coding and closing the appeal in PATS once the appeal has been decided, all documentation has been uploaded into PATS and a final appeal decision letter has been sent to the patient. ***NOTE:*** *this responsibility cannot be delegated.*

h. **Centralized Eligibility and Appeals Team.** A CEAT is composed of a standardized group of inter-professional, licensed practitioners within each VISN, with specific expertise and training in the eligibility requirements for the PCAFC. Each CEAT will be comprised of a minimum of three inter-professional licensed practitioners (Physician/Nurse Practitioner/Physician Assistant; Psychologist; and Registered Nurse/Social Worker/Licensed Mental Health Counselor), and will include Occupational Therapists, as appropriate, as well as an Administrative Program Support Staff. The CEAT is responsible for the assigned activities in Appendix G, VHA Clinical Appeals Process for PCAFC, as it specifically relates to appeals regarding the Program of Comprehensive Assistance for Family Caregivers.

i. **VA Medical Facility Director.** The VA medical facility Director is responsible for:

(1) Ensuring the clinical appeals process established by this directive is implemented at the VA medical facility level.

(2) Ensuring that patients are informed of their right to dispute a medical determination and the process involved in appealing that decision.

(3) Timely and accurate completion of all tasks assigned to the VA medical facility Director under paragraph 5, VA medical facility Clinical Appeals Process.

k. **VA Medical Facility Chief of Staff.** The VA medical facility COS is responsible for:

(1) Ensuring all clinical activities in paragraph 5, VA medical facility Clinical Appeals Process, including tasks assigned to the VA medical facility COS, are completed accurately and within the stated timeframes.

(2) If delegating decision-making authority for the VA medical facility COS responsibilities, ensuring that the designee is an appropriate clinician (e.g., Associate COS, Deputy COS, Clinical Service Line Leader). The VA medical facility COS is responsible for informing all individuals involved in the VA medical facility's and VISN's clinical appeals processes of any such delegation. Any clinician delegated the responsibilities of the VA medical facility COS is responsible for timely and accurate completion of all tasks assigned to the VA facility COS in paragraph 5, VA medical facility Clinical Appeals Process. Any reference in this directive to the responsibilities of the VA medical facility COS shall also be considered a reference to the VA medical facility COS's designee. Delegation by the COS may not be further re-delegated by the designee.

(3) Ensuring that the safety and medical condition of the patient is considered, and the clinical appeals process is expedited as needed.

j. **VA Subject Matter Expert or Medical Facility Multi-Disciplinary Team Chair.** The designated VA SME or MDT Chair is responsible for timely and accurate completion of all tasks assigned the SME or MDT under paragraph 5, VA medical facility Clinical Appeals Process and paragraph 6, VISN Clinical Appeal Process.

k. **VA Medical Facility Patient Advocate.** The VA medical facility PA is responsible for:

(1) Serving as patients' initial and primary point of contact during the clinical appeals process at the VA medical facility level and responding to questions the patient may have about the appeals process at the VA medical facility level.

(2) Ensuring a record of communication in PATS is completed related to the clinical appeals process at the VA medical facility level.

(3) Determining the patient's preferred method of communication and documenting this information in PATS.

(4) Educating the patient verbally or in writing on the clinical appeals process, including timelines and the procedure for appealing the VA medical facility decision to the VISN.

(5) Timely and accurate completion of all tasks assigned the PA under paragraph 5, VA medical facility Clinical Appeals Process, and Appendix G, VHA Clinical Appeals Process for PCAFC.

(6) Communicating status updates on the appeal process to the patient as required in this directive and as requested.

(7) Coding and closing the appeal in PATS once the appeal has been decided, all documentation has been uploaded into PATS and a final appeal decision letter has been sent to the patient. ***NOTE****: This responsibility cannot be delegated.*

l. **VA Medical Facility Caregiver Support Program-Program Manager.** The VA medical facility Caregiver Support Program-Program Manager (CSP-PM), or if no CSP-PM, the designated Caregiver Support Coordinator (CSC), is responsible for timely and accurate completion of the activities assigned in Appendix G, VHA Clinical Appeals Process for PCAFC, as it specifically relates to appeals for the PCAFC.

8. TRAINING

a. Training on the clinical appeals process is available for VA medical facility COS or designee, PAs, VISN CMOs or designee, VPACs and CEAT.

b. Appeals of Veterans Heath Administration Clinical Decision Directive 1041 (TMS 42692, is mandatory training for new PAs and VPACs within 90 days of their start date.

9. RECORDS MANAGEMENT

All records regardless of format (e.g., paper, electronic, electronic systems) created by this directive shall be managed per the National Archives and Records Administration (NARA) approved records schedules found in VA Records Control Schedule 10-1. Questions regarding any aspect of records management should be addressed to the appropriate Records Manager or Records Liaison.

10. REFERENCES

a. 38 U.S.C. § 1703(f).

b. 38 U.S.C. § 1720G.

c. 38 U.S.C. § 7301(b).

d. 38 C.F.R. § 17.38.

e. 38 C.F.R. § 20.104(b).

f. VHA Directive 1032, Health Benefit Appeals Processing, dated August 16, 2013.

g. VHA Directive 1130, Veterans Health Administration Dental Program, dated March 6, 2020.

h. VHA Directive 1190, Peer Review for Quality Management, dated November 21, 2018.

i. VHA Directive 2012-018, Solid Organ and Bone Marrow Transplantation, dated July 9, 2012.

j. VHA Handbook 1004.01(3), Informed Consent for Clinical Treatments and Procedures, dated August 14, 2009.

k. VHA Handbook 1004.02, Advance Care Planning and Management of Advance Directives, dated December 24, 2013.

l. VHA Handbook 1130.01(1), Veterans Health Administration Dental Program, dated February 11, 2013.

NOTICE OF RECEIPT OF CLINICAL APPEAL LETTER

[INSTRUCTIONS: This letter must be sent to the person(s) who submitted the appeal after they submit the clinical appeal to the Patient Advocate (PA) at the Department of Veterans Affairs (VA) medical facility level or the Veterans Integrated Service Network (VISN) Patient Advocate Coordinator (VPAC) at the VISN level. A copy is uploaded into PATS. This letter is optional for VCCP eligibility appeals when a decision is required within 3 business days. If used for VCCP appeals, edit timeline to 3 business days. Edits can be made to create a personalized letter, but key elements in [CAPS] must be included.]

[Name and Address]

Dear [Name],

We received your written appeal on [DATE]. VA is committed to ensuring patients have access to a fair and impartial review of medical determinations.

We will notify you of the final decision or provide a status update in within the next 45 business days.

If you have any questions about the clinical appeals process, please contact [INSERT NAME and CONTACT INFO OF PA or VPAC].

Sincerely,

[INSERT NAME OF PA or VPAC]

VA CLINICAL APPEAL DECISION MEMORANDUM

[INSTRUCTIONS: This memorandum is used to document and communicate rationale, recommendation, and decision regarding the appeal with appropriate signatures. The Multi-disciplinary Team (MDT) or Centralized Eligibility and Appeal Team (CEAT) can use this memorandum to communicate its recommendation to the Chief of Staff (COS) or Chief Medical Officer (CMO). The COS/CMO will use this memorandum to provide the Department of Veterans Affairs (VA) medical facility Director or Veterans Integrated Service Network (VISN) Director, respectively, their decision. The COS/CMO must provide rationale if they disagree with a recommendation of the MDT/CEAT. This memorandum is also used to document input from subject matter experts if an MDT is not convened. This memorandum must be maintained in Patient Advocate Tracking System (PATS). Additional elements may be added to this memorandum, but elements below may not be deleted.]

FACILITY/VISN: *Name of VA medical facility or VISN*

FROM: *Person communicating the recommendations or making the decision*

TO: *Chief of Staff, Chief Medical Officer, VA medical facility Director or VISN Director*

SUBJ: *Clinical Appeal filed by Mr./Ms. Smith (Full Social Security Number or Electronic Data Interchange Personal Identifier (EDIPI number))*

1. DATE OF APPEAL: *Date VA received written document from patient*

2. STATEMENT OF APPEAL: *What decision is the patient appealing? Any pertinent rationale the patient provides as the basis for the appeal. If VISN level appeal, include decision of facility and date the original appeal was decided.*

3. LIST OF DOCUMENTS REVIEWED BY DATE, TITLE, AUTHOR: *Separate list may be attached.*

4. SUBJECT MATTER EXPERTS CONSULTED AND INPUT (if applicable):
Consulted with Dr. G.I. Joe, Orthopedic Surgeon.

5. MULTI-DISCIPLINARY TEAM or CENTRALIZED ELIGIBILITY AND APPEAL TEAM (if applicable): *Include all names and credentials of team members.*

6. CONSIDERATIONS FOR THE DECISION: *State key factors and/or clinical rationale that were considered in making final decision by COS/CMO, or recommendation by MDT/CEAT. State if any legal or ethical aspects that were considered.*

7. DECISION OR RECOMMENDATION: *Decision if completed by COS or CMO. Recommendation if completed by MDT/CEAT. State the recommendation(s) of the team*

or decision of the COS or CMO – do you agree with the original provider's decision or do you recommend an alternative plan?

_____(Signature) _____

PRINT NAME of each member of MDT/CEAT, (if applicable) **DATE**

#8 is necessary if MDT/CEAT is convened. Otherwise, COS/CMO signs after completing

8. AGREE/DISAGREE with RECOMMENDATION *(include rationale if disagree)*

_____(Signature) _____

PRINT Name of COS / CMO **DATE**

VA MEDICAL FACILITY CLINICAL APPEAL DECISION LETTER

[INSTRUCTIONS: The person(s) who submitted the appeal must receive a letter summarizing the documents reviewed, documenting the decision, and explaining how the patient can appeal the decision to the Veterans Integrated Service Network (VISN). This may be edited based on the actions taken to review and decide the appeal (e.g., depending on whether Subject Matter Expert and/or Multi-disciplinary Team input was provided). A copy of the letter must be maintained in the Patient Advocate Tracking System (PATS). Edits can be made to create a personalized letter, but key elements in [CAPS] must be included.]

[Name and Address]

Dear [Insert Name],

This letter is in reference to your Clinical Appeal received [DATE]. It is Veterans Health Administration (VHA) policy that patients have access to a fair and impartial review of medical determinations.

Your clinical appeal is related to [STATE REASON OF APPEAL]. The Chief of Staff appointed a Multi-disciplinary Team (MDT) which included a panel of clinical experts to review your appeal. The team reviewed your medical record and your written appeal. [INSERT HIGH LEVEL OVERVIEW OF DOCUMENTS REVIEWED (e.g., documents from Primary Care, Neurology, Physical Therapy) and DETAILS ABOUT THE FINDINGS FROM THE DOCUMENT REVIEW. PROVIDE ANY ADDITIONAL POLICY/PROCEDURE INFORMATION THAT IMPACTED THE FINAL DECISION].

We have determined [INSERT FINAL DECISION].

You may appeal this decision to the Veterans Integrated Service Network (VISN) by submitting your request in writing to:

VISN [X]
ATTN: VISN Patient Advocate Coordinator
STREET
CITY ST ZIP

If you have questions about the appeals process, please contact the Patient Advocate [POC NAME, EMAIL AND TELEPHONE NUMBER]. If you have questions about the clinical decision, please contact [POC NAME, EMAIL AND TELEPHONE NUMBER].

Sincerely,

[NAME]

VA Medical Facility Director

VETERANS INTEGRATED SERVICE NETWORK CLINICAL APPEAL DECISION LETTER

[INSTRUCTIONS: The person(s) who submitted the appeal must receive a letter summarizing the documents reviewed and the final appeal decision. A copy of this letter must be maintained in Patient Advocate Tracking System (PATS). Edits can be made to create a personalized letter (e.g., depending on whether Subject Matter Expert and/or Multi-disciplinary Team input was provided or the CMO receives recommendations from an external review), but key elements in [CAPS] must be included.]

[Name and Address]

Dear [Insert Name],

This letter is in reference to your Clinical Appeal received [DATE]. It is Veterans Health Administration (VHA) policy that patients have access to a fair and impartial review of medical determinations.

The [VISN NAME] Veterans Integrated Service Network (VISN) reviewed the available medical records, the recommendation made by the Multi-disciplinary Team at the facility and your written appeal. [INSERT DETAILS ABOUT THE FINDINGS FROM THE DOCUMENT REVIEW AND ANY ADDITIONAL POLICY/PROCEDURE INFORMATION THAT IMPACTED FINAL DECISION. INCLUDE IF ANY EXTERNAL REVIEW WAS REQUESTED FROM VA CENTRAL OFFICE AND THEIR FINDINGS].

We have determined [INSERT FINAL DECISION]. This is the final level of appeal in the clinical appeals process.

Should you have any further questions, please contact [POC NAME, EMAIL AND TELEPHONE NUMBER.]

Sincerely,

[NAME]

VISN Director

APPEAL DECISION LETTER FOR THE PROGRAM OF COMPREHENSIVE ASSISTANCE FOR FAMILY CAREGIVERS

[INSTRUCTIONS: The person(s) submitting the appeal must receive a letter summarizing the documents reviewed, documenting the appeal decision, and, if providing a decision on the first level appeal, explaining how they can file a second level appeal. A copy of the letter must be maintained in the Patient Advocate Tracking System (PATS). Edits can be made to create a personalized letter, but key elements in [CAPS] must be included.]

[Name and Address]

Dear [Insert Name],

This letter is in reference to your Clinical Appeal received on [DATE]. It is Veterans Health Administration (VHA) policy that patients have access to a fair and impartial review of medical determinations.

Your clinical appeal is related to [STATE REASON OF APPEAL]. An inter-professional team from VISN # [INSERT NUMBER] with expertise in all aspects of the Program for Comprehensive Assistance for Family Caregivers (PCAFC) reviewed your appeal, including all documents included in the original decision. [INSERT HIGH LEVEL OVERVIEW OF DOCUMENTS REVIEWED and DETAILS ABOUT THE FINDINGS FROM THE DOCUMENT REVIEW. PROVIDE ANY ADDITIONAL POLICY/PROCEDURE INFORMATION THAT IMPACTED THE FINAL DECISION].

We have determined [INSERT FINAL DECISION].

You may appeal this decision for a second level review by submitting an appeal request in writing to:

ATTN: VISN Patient Advocate Coordinator
STREET
CITY ST ZIP

*Or if this is the decision letter for the **second level review**:*

We have determined [INSERT FINAL DECISION]. This is the final level appeal in the clinical appeals process.

If you have questions about the Caregiver Support Programs, please contact [POC NAME, EMAIL AND TELEPHONE NUMBER]

If you have questions about the appeals process, please contact the Patient Advocate [POC NAME, EMAIL AND TELEPHONE NUMBER].

Sincerely,

[NAME]
VISN Director

CLOSURE LETTER FOR CLINICAL APPEALS

[INSTRUCTIONS: If the appeal is resolved by the original decision-maker and/or the clinical team by a re-evaluation or if the patient withdraws the appeal prior to the COS/CMO issuing the VA Clinical Appeals Decision Memorandum (see Appendix B), the Patient Advocate (PA) or Veterans Integrated Service Network (VISN) Patient Advocate Coordinator (VPAC) will send a closure letter to the person(s) who submitted the appeal to affirm closure of the appeal case. A copy of the letter will be maintained in PATS. Edits can be made to create a personalized letter, but key elements in [CAPS] must be included.]

[Name and Address]

Dear [Insert Name],

Thank you for contacting [INSERT VA Medical Facility or VISN] to communicate your health care concerns. Your health care team has reached out to discuss your clinical dispute and has provided a plan to address your needs. Based on this action, your clinical appeal received on [DATE] has been closed.

If you have any additional questions about your health care and treatment, please contact your health care team.

If you have any questions about the clinical appeals process, please contact [INSERT NAME and CONTACT INFO OF PA or VPAC].

Sincerely,

[INSERT NAME OF PA or VPAC]

VHA CLINICAL APPEALS PROCESS FOR THE PROGRAM OF COMPREHENSIVE ASSISTANCE FOR FAMILY CAREGIVERS

1. FIRST LEVEL APPEAL

Appeals related to the Program of Comprehensive Assistance for Family Caregivers (PCAFC) will be adjudicated and a final decision will be communicated to the person(s) who submitted the appeal within 45 business days of the appeal being received by the Patient Advocate (PA).

2. VA MEDICAL FACILITY INTAKE

a. A patient, patient's surrogate, or caregiver initiates a clinical appeal in writing through the VA medical facility Patient Advocate (PA).

b. After the PA determines the appeal involves a clinical dispute over a decision under 38 U.S.C. § 1720G(a) affecting the furnishing of assistance or support under to PCAFC, the PA enters the appeal into the Patient Advocate Tracking System (PATS) to begin the clinical appeal process as outlined in this Appendix G.

c. PA prepares and mails a Notice of Receipt of Clinical Appeal Letter (Appendix A) to the person(s) who submitted the appeal and uploads a copy into PATS on the (business) day the appeal is received by the PA.

d. PA sends the appeal, including all of the relevant documents submitted with the appeal, in PATS to the VA medical facility Caregiver Support Program (CSP) Program Manager, for notification, and to the Veterans Integrated Service Network (VISN) Patient Advocate Coordinator (VPAC) and Centralized Eligibility and Appeal Team (CEAT) Administrative Program Support staff in their VISN for processing.

e. CSP Program Manager ensures the date the appeal is received is noted in the CSP web-based application..

3. VISN REVIEW

a. CEAT Administrative Program Support Staff will coordinate the assignment of the appeal to the appropriate VISN CEAT for review ***NOTE:*** As a reminder, this is a CEAT other than the one who made the original decision.

b. The assigned CEAT reviews the appeal and relevant clinical records. The CEAT may determine that additional information and assessments are necessary to make a recommendation regarding the appeal. The CEAT Administrative Program Support staff, at the VISN where the appeal originated, will coordinate any needed assessments with the applicable VA medical facility.

c. The CEAT prepares and submits its recommendations through the VA Clinical

Appeal Decision Memorandum (Appendix B) in PATS to the VISN Chief Medical Officer (CMO) of the CEAT assigned to review the appeal.

d. VISN CMO deciding the appeal, is within the same VISN as the assigned CEAT reviewing the first level appeal.

e. The VISN CMO, as indicated in 3.d., reviews the recommendation and seeks any needed clarification. The VISN CMO decides the appeal, finalizes and signs the VA Clinical Appeal Decision Memorandum (Appendix B), and forwards the completed memorandum to the Network Director, at the VISN where the appeal originated, through PATS. ***NOTE:*** *If delegating VISN CMO duties, see paragraph 7.g.(3) in this directive.*

4. VISN CLOSING APPEAL

a. Upon receipt of a VA Clinical Appeal Decision Memorandum (Appendix B), the VISN Director at the VISN where the appeal originated ensures the Appeal Decision Letter for PCAFC (Appendix E) is prepared, signed, mailed to the individual(s) who submitted the appeal and that all final documents are entered into PATS.

b. VISN CMO at the VISN where the appeal originated ensures documentation of the appeal decision in the patient's Electronic Health Record (EHR) under the progress note titled: Clinical Appeal Decision.

c. The CSP Program Manager, at the VA medical facility where the appeal originated, ensures the person(s) who submitted the appeal is informed of the decision by their preferred method of communication, if other than letter, and notates the appeal decision in CSP web-based application.

d. Upon receiving all final documents in PATS, the VPAC, at the VISN where the appeal originated, codes and closes the appeal.

5. SECOND LEVEL APPEAL

Second level appeals for the PCAFC will be adjudicated and a final decision will be communicated to the person(s) who submitted the appeal within 45 business days of the appeal being received by the VPAC.

The second level appeal process is the same as the first level appeal process except:

a. The appeal is submitted in writing to the VPAC at the VISN where the appeal originated. The VPAC completes actions designated to the PA in the first level appeal.

b. CEAT reviewing the appeal is a different CEAT than the one that made the initial eligibility determination and did not review the first level appeal.

c. VISN CMO deciding the appeal is within the same VISN as the CEAT reviewing the second level appeal, not the VISN CMO where the appeal originated. ***NOTE:*** *If*

delegating VISN CMO duties, see paragraph 7.g.(3).

d. After the VISN CMO receives the recommendations from the CEAT, they may consult with the Director, Clinical Risk Management, VHA Office of Quality & Patient Safety at VHA10E1HRiskManagementStaff@va.gov to coordinate an external review, as appropriate. The VISN CMO receives the recommendations from the external review within 30 business days. If an external review is conducted and additional time beyond the 45 business days (as noted in this paragraph 5 of Appendix G) is necessary, the VISN CMO will ensure the individual who submitted the appeal is notified. The appeal is to be completed no more than 60 days after the date the appeal was received by the VPAC.

e. The VISN Director signing the Caregiver Appeal Decision Letter (Appendix E) is in the same VISN as the CMO deciding the appeal.