



Policy Title	Reopenings for Organization Determinations
Policy Department	Utilization Management
Effective Date	9/17/21
Revision Date(s)	10/11/17, 11/08/19, 7/13/20, 7/2/21

Disclaimer:

Clover Utilization Management applies CMS criteria and guidelines, National Coverage Determinations (NCD), Local Coverage Determinations (LCD), Clover Policies, and MCG for determining medical necessity. Clover Policies are intended to provide a standard guideline but are not used to preempt providers' judgement in rendering services. Providers are expected to provide care based on best practices and use their medical judgement for appropriate care.

Purpose:

The purpose of this policy is to establish Clover Health’s (Clover) procedures for the reopening of organization determinations.

Scope:

This Policy and Procedure is to define the responsibilities of the Utilization Management (UM), Appeals, Claims, and Payment Integrity Department for reopening initial organization determinations, reconsiderations, and claims organization determinations where medical review is needed by the UM and Appeals clinical team.



Policy:

The process for a reopening is for a remedial action taken to change a binding determination or decision that resulted in either an approval, denial in whole or in part, overpayment or an underpayment, even though the determination or decision was correct based on the evidence of record. Reopenings are separate and distinct from the appeals process. Reopenings are a discretionary action on the part of Clover. Clover’s decision to reopen an authorization or claim determination is binding and not subject to appeal. Requesting a reopening does not toll the timeframe to request an appeal. When a determination or decision is reopened and revised (including revision of the rationale for a decision that is not revised) Clover will deliver written notification to the parties of the determination or decision.

Reopenings may occur based on “new and material evidence”, clerical error and/or when evidence that was considered in making the determination or decision clearly shows on its face that an obvious error was made at the time of the determination or decision and may only be granted or processed by the Department’s Director and Designees of the Director.

Procedures:

1. Reopening and Revising Organization Determinations and Reconsiderations

- a. A reopening is a remedial action taken to change a binding determination or decision even though the determination or decision was correct based on the evidence of record. This includes fixing clerical errors.
 - i. The reopening can be made by Clover, the Independent Review Entity, Administrative Law Judge, or Medicare Appeals Council.
 - ii. The reopening cannot be made when the issue is under appeal until all appeal rights at that particular appeal level are exhausted. A party

cannot have an appeal and reopening occurring simultaneously with respect to the same coverage determination.

- iii. Clover's decision on whether to reopen is final and not subject to appeal.
- b. The following are the requirements for a reopening request:
 - i. The request must be made in writing
 - ii. The request for reopening must be clearly stated
 - iii. The request must include the specific reason for requesting the reopening (a statement of dissatisfaction is not grounds for a reopening, and should not be submitted)
- c. If Clover receives a request for reopening and disagrees that the issue is a clerical error, Clover will dismiss the reopening request and advise the party of any appeal rights, provided the timeframe to request an appeal of the original denial has not expired.
- d. In the event that any determination or decision is reopened and revised, Clover will deliver written notification of its revised determination to the involved parties at their last known address.
- e. A revised determination or decision is binding unless it is appealed. The timeframe to request an appeal of the revised determination or decision begins on the date of the revised determination or decision.
- f. The filing of a request for a reopening with the IRE, ALJ, or MAC, does not relieve Clover of any obligation to make payment for, authorize, or provide services as specified in this policy.

2. Timeframes and Requirements for Reopening by Clover or External Parties

- a. Reopenings may occur based on "new and material evidence", clerical error and/or when evidence that was considered in making the determination or decision clearly shows on its face that an obvious error was made at the time of the determination or decision.
- b. The request should be made within the timeframes permitted for reopening.
- c. Reopenings may be initiated by Clover according to the following time frame.
 - i. Within 1 year from the date of the initial determination or level 1 appeal for any reason.
 - 1. Good cause is defined as:
 - a. There is new and material evidence that was not available or known at the time of the determination or decision, and may result in a different conclusion; or
 - b. The evidence that was considered in making the determination or decision clearly shows on its face that an obvious error was made at the time of the determination or decision.

- ii. At any time if there exists reliable evidence (i.e. relevant, credible, and material) that the organization determination was procured by fraud or similar fault.
- iii. At any time if the organization determination or reconsideration is unfavorable, in whole or in part, to the party (but only for the purpose of correcting a clerical error on which that determination was based)
 - 1. Clerical error includes human and mechanical errors on the part of the party or Clover
 - a. Mathematical or computational mistakes;
 - b. Inaccurate data entry; or
 - c. Denials of claims as duplicates.
- iv. At any time to effectuate a decision issued under the coverage (National Coverage Determination (NCD)) appeals process.

Note: A change of legal interpretation or policy by CMS in a regulation, CMS ruling, or CMS general instruction, whether made in response to judicial precedent or otherwise, is not a basis for reopening a determination or hearing decision.

3. Policy and Practice Guideline Review Frequency

- a. This Clover policy and procedure along with any Medical Management practice guidelines are reviewed annually and presented to the Chief Medical Officer, Medical Management Committee, and Quality Improvement Committee with physician peers for consultation with respect to utilization management, enrollee education, coverage of services, and other areas in which the guidelines apply in accordance to Chapter 6 Section 20 of the Medicare Managed Care Manual.

References



[Medicare Managed Care Manual Parts C & D Enrollee Grievances, Organization/Coverage Determinations, and Appeals Guidance Section 80](#)
