



Retired Public Employees of Alaska, APEA/AFT

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Dear RPEA Member,

As a former state employee, your employment with the State created a Constitutionally protected contract. As a retiree, you are entitled to receive the benefits of that contract, including pension payments, as well as health care coverage and benefits. The State unilaterally and impermissibly changed those benefits in January 2014.

RPEA has been working diligently to monitor and address these changes. Part of that work includes monitoring medical and dental claims denials by the new TPAs -- Aetna and Moda -- to ensure these changes are properly addressed.

RPEA suggests that you appeal any claim denied by either Aetna or Moda that involves a service or procedure that you previously received, and was covered, prior to January 2014.

We have attached instructions as well as suggested language that we recommend you use in any appeal you file. You can find the forms to file Medical and DVA appeals on the RPEA website at: rpea.apea-aft.org or use the "hot-links" in the instructions to copy the wording.

We would like to track your appeal and assist you with advice if possible. If that is agreeable, please send us any denied claims and EOBs along with your letter of appeal.

If you are not a member of RPEA, and you find this document helpful, we would invite you to become a member. Just go to our web site at <http://rpea.apea-aft.org/> It is \$35/year and will help us better serve Alaska retirees.

You can send questions and appeal information to Sharon Hoffbeck, Chair, Retiree Benefits Committee: sharonhoffbeck@gmail.com.

Sincerely,

Sharon Hoffbeck President
Chair, Retiree Benefits Committee Retired Public
Employees of Alaska

Protecting and Enriching Your Retirement Years



Dental Appeal Instructions For issues that have occurred since 1/1/18



Dental Appeal Instructions For issues that have occurred since 1/1/18¹ *WHY* you should appeal

Filing an appeal has two purposes:

- 1) To correct any mistakes or misinterpretation of **your** claim so you are properly reimbursed based on our plan's provisions.
- 2) To help **preserve the retirement benefits of all retirees** by finding and correcting errors or misinterpretations of our plan.

Our right to benefits is created in the Alaska Constitution and confirmed in the Supreme Court decision *Duncan v. Retired Public Employees of Alaska*. That decision found that “Any changes in the medical plans that operate to an employee's disadvantage must be offset by a comparable new advantage to that employee.” It also cited Article XII, §7 of the Constitution, which says in part “Accrued benefits of these systems shall not be diminished or impaired.”

HOW to appeal

On January 1, 2014, the Division of Retirement and Benefits (DRB) substantially changed the appeal process for the retiree Medical, Dental/Vision/Audio (DVA), and Long-Term Care (LTC) plans including writing themselves out of the appeal process. However, on 1/1/18 they amended the appeal process to again include DRB in the appeal process. The 1/1/18 amendment supersedes the 1/1/14 and 7/1/05 amendments.

The appeal information below is based on provisions in the 1/1/18 Amendment and information that RPEA received from DRB. As we receive updated information, we will endeavor to revise the instructions below.

All initial claims for benefits **MUST** be filed and received by DRB as soon as possible but no later than 12 months from the date the expenses were incurred. Urgent Care claims should be no later than 24 hours.

New Appeal Levels

The appeal process now has four levels instead of three. (DRB is again involved in hearing or deciding appeals.)

Appeal levels for the dental plan are:

- Level I: Moda Health/Delta for all issues
- Level II: Moda Health/Delta for plan design or claim denial issues, or
Independent Review Organization (IRO) for dental issues*
- Level III: Division of Retirement and Benefits (DRB) appeal
- Level IV: Office of Administrative Hearings (OAH)**

¹ NOTE: RPEA has developed these appeal instructions in an effort to help retirees better understand the appeals procedures recently imposed by DRB under the AlaskaCare Retiree Health Plan. These instructions are not intended to provide any sort of legal advice or direction. Each retiree should read the new 2018 appeals procedure adopted by DRB which govern any appeal submitted. These instructions are meant to make that new appeal procedure more understandable but should not be viewed or used as the actual appeal procedure. Each retiree must understand that use of these instructions are to assist only but not control any particular appeal filed.



*IROs are companies hired by Moda/Delta Health to independently review appeals that require medical or dental expertise to determine *medical necessity*. Moda/Delta have each contracted with three IROs. Medical or dental-based appeals are randomly assigned to one of the three IROs .

**OAH is part of the Alaska Department of Administration. The office has a panel of administrative law judges who hear Level IV appeals and independently determine the claim appeal based on Alaska law.

Remember **all appeals must be in writing** under the 1/1/18 Amendment.

DENTAL APPEALS

The dental plan appeal procedure is very similar to that for Medical Vision/Audio. However, some wording and addresses change. Please follow these instructions when making a dental appeal. Moda and Delta are used interchangeably. Moda is the main corporate body for Oregon and Alaska. Moda Health is a member of Delta Dental. Moda was previously known as ODS (Oregon Dental Services).

Before you begin:

- a. Read the Explanations of Benefits (EOB) or letter from Moda. Be sure you understand it. Read *the document's front and back for the explanation of coded remarks*.
- b. *Contact your dental office to see if the claim needs additional detail. Sometimes the addition of a single word in the comments section is enough to have the claim approved. For example, if you have periodontal disease and need four cleanings annually, the words "periodontal disease" must be in the section called "Comments" when the dentist's office submits the claim.*
- c. *Call Moda Health at 855-718-1768 if you need further clarification. Moda may be able to reprocess your claim in a timely manner. A request to reprocess a claim is **not** the same as an official Level I appeal.*

Log all telephone calls to Moda, the Division of Retirement and Benefits, and medical or dental providers. The log should include the date, time, representative's name and a summary of each conversation. Ask the representative for your call number and log it. They record each call, and this will help locate your conversation in the future if necessary. If possible, speak to the same representative each time. *If you talk to a helpful representative, ask for that person's direct extension number.*

1. If you made a mistake and submitted an incomplete claim you will be notified one of two ways:
 - 1) Orally of the additional information needed to complete your claim. That should occur no later than 24 hours from when the claims administrator receives your *urgent* claim;
 - 2) In writing no later than 15 calendar days from when the claims administrator receives your *pre-service* claim; or
 - 3) In writing no later than 30 calendar days from when the claims



administrator receives your *post-service* claim.

4) If, because of matters beyond the claims administrators control, they cannot meet these time limits for pre and post-service claims they will be granted a one-time 15 day extension.

Ongoing Treatments

If the claims administrator has approved an on-going course of treatment that is to be given to you over a period of time for a certain number of treatments, *any reduction or termination* by the claims administrator will be considered a denial and may be appealed. You will be notified before the termination or reduction of treatments, so you have a reasonable time to appeal that decision.

URGENT APPEALS WHEN DELAY IS HARMFUL

If you have received a denial for a procedure or treatment and your provider determines that a delay could harm your health, you or your provider can contact Moda. Call 855-718-1768 to request an expedited appeal. Moda should respond no later than 72 hours following receipt of your Level I or Level II appeal request for an expedited appeal.

Level I Appeal Dental

Once you have decided to appeal the denial of your claim or precertification print a copy of the ODS complaint and appeal form at https://www.modahealth.com/pdfs/ak/grievance_form.pdf. If you don't have Internet access call Moda at 855-718-1768 and ask to have a copy sent to you.

1. The 2018 Plan Amendment specifies that ***any appeal must be in writing and be received within 180 days of the date the Explanation of Benefits (EOB) or Pre-Certification denial.*** Include only information relevant to the claim. **Be factual,** not emotional. The decision on your appeal will be based on the facts.

1. We recommend that you use the following language we have developed as part of your letter's cover page. The MODA appeal form can be attached to this.



2.

I am appealing the denial of coverage for _____ provided to me on _____, 20____.

The State of Alaska provides health benefits for individuals, including retirees, who are entitled to coverage under applicable statutes. These benefits are described in the Retiree Health Plan Booklet and include benefits under DVA for retirees who elect coverage. The benefits provided under this coverage cannot be diminished without an equal or greater offset of enhanced benefits.

- When I (or my spouse) retired in _____ (date of retirement) I/we opted for DVA coverage.
- Since I was a retiree entitled to benefits under PERS/TRS, I was entitled to elect DVA coverage.
- DVA coverage is described in the 2003 Retiree Insurance Information Booklet along with other medical coverage.
- I paid for DVA coverage through monthly withholdings from my monthly retirement payment.
- The DVA plan included _____ treatment as a covered benefit in _____ (year of retirement when coverage was elected) when I elected coverage.
- PERS/TRS retirement benefits, including medical benefits, are vested, constitutionally protected rights that cannot be diminished without an equal or greater enhancement.
- DOA has unilaterally diminished benefits available under the DVA plan described in the 2003 Retiree Benefits Booklet such as treatment for _____ and has not provided any enhanced benefits to the DVA plan to offset these diminished benefits.

Attached are the details of my appeal and supporting documents.

You can copy this text at:

http://www.rpea.apea-aft.org/medical/benefit_issues/2016/Recommended-cover-page-language-for-Dental-appeals.pdf

Your letter should include:

- a. Your mailing address and phone number.
- b. Name of patient.
- c. Name of Retiree/Subscriber and ID number.
- d. Group Number.
- e. Claim Number.
- f. Date of Service or Date of Denial for Certification.
- g. Include in your letter:
 - What decision you are appealing,
 - Moda's reason for denying your claim,
 - Why you disagree with its denial,



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3. Make copies of the Explanation of Benefits, correspondence, statements from providers and relevant records to include with your appeal letter. If you have had this procedure or service before and it was covered, include copies of any EOBs showing that.
4. Mail your appeal letter as soon as possible after you receive the Explanation of Benefits to:

Moda Health Appeal Unit
Attn: AlaskaCare Member Appeal Level 1
601 SW Second Avenue
Portland, OR 97204
5. **Always send the appeal and any other communications by priority or certified mail, return receipt requested, to prove that the appeal was received within the required time.** If you send by Priority Mail, request both a signature and tracking. *Moda does not have an office in Alaska where the appeal may be submitted in person.*
6. *Moda should respond no later than 60 days after receipt of an appeal of a claim denial. If appealing a Pre-certification, Moda should respond within 30 days. If you do not receive a timely response, call Moda at 855-718-1768.*
7. If Moda does not send a written decision by those deadlines, treat that failure as a denial and proceed to Level II.
8. If you are not satisfied with the Moda Level I response, you may file a Level II appeal. (See below.)



Level II Appeal Dental

If your Level I appeal is not resolved to your satisfaction, or if Moda fails to issue a timely written decision, the next step is to file a Level II appeal. *There are two deadlines for this level of appeal:*

1. If your appeal is based on the plan or policy itself that ***appeal must be in writing and must be received by Moda within 180 days*** of the date the Level I decision letter was issued (date on the letter). *If you received no response from Moda 60 days after you filed a Level I appeal, consider that a rejection and file a Level II appeal.*
2. An appeal based on dental/medical judgment or necessity must be received by Moda within four months or 120 days of the date on your level I decision letter.
3. ***Send the appeal and any other communications by priority or certified mail, return receipt requested, to prove that the appeal was received within the required time. If you use Priority Mail, request both a signature and tracking.***

Mail your appeal to:

**Moda Health Appeal Unit
Attn: AlaskaCare Member Appeal Level II
601 SW Second Avenue
Portland OR 97204**

Individuals who were not involved in the review of your Level I appeal will review your Level II appeal. **Moda is required to respond to an appeal regarding precertification within 15 days or within 30 days for all other appeals.**

- If the appeal is about plan design, Moda will decide it.
- *If the appeal involves a dental/medical judgment, request a review by an Independent Review Organization (IRO). Then the appeal will be randomly assigned to one of three IROs for review and an opinion. (ProPeer, Medical Consultants Network, LLC (MCN) and MCMC, LLC.)*

The IRO will provide written notice of its decision within 45 days after receiving the request for external review. If Moda's final denial is reversed, Moda is required to pay the claim promptly.

If your Level II appeal is denied or the decision by Moda or the IRO was unsatisfactory, you may file a Level III appeal.



Level III Appeal for Dental

If your level II appeal is denied on external review or if not eligible for an external review at the II level, you may send a written appeal to the Division of Retirement and Benefits.

If you choose to make an appeal of your level II decision your appeal packet must be either postmarked or received by the Division of Retirement and Benefits no later than 60 calendar days from the date of the external review or second level claims administrators letter.

Include in your appeal letter any additional information you wish considered when deciding your appeal. The Division will request a copy of your Claims Administrators file and needed information from your provider. The Division will review your appeal to see if it relates to the terms and coverage of the health plan. If your appeal involves medical judgement, including but not limited to the health plans requirements for medical necessity, appropriateness, health care setting, level of care, or effectiveness of a covered benefit, or that a treatment is experimental or investigational; the Division may refer your appeal to a second IRO in cases where the initial IRO is deemed inadequate or that substantial new clinical evidence is provided that was not available during the first IRO review.

Send your Level III appeal packet using return receipt mail to:

State of Alaska
Division of Retirement and Benefits: Dental Appeal Level III
POB 110203
Juneau, AK 99811-0203

The Division will issue a written decision of your third level appeal within 60 calendar days from the receipt of your third level appeal.

If your Level III appeal is denied or the decision by the Division of Retirement and Benefits was unsatisfactory, you may file a Level IV appeal. (See below)



Level IV Appeal for Dental

If your level III appeal is denied, you have the right under Alaska laws to file a Level IV appeal to the Office of Administrative Hearings (OAH) **within 30 days of the date you receive notice of your Level IV decision.**

AS 39.35.006 authorizes any member or beneficiary under the Alaska Retirement Plan to appeal a decision made by the administrator or third-party administrator (TPA) of the Plan, such as Aetna or Moda, to the Alaska Office of Administrative Hearings (OAH). This same appeal right exists under the other retirement statutes, such as TRS.

Under the statute, OAH has 120 days after receiving the appeal to prepare a proposed decision. The involved parties can extend this by mutual agreement.

The procedure for an OAH appeal is set in Alaska Administrative Code at 2 AAC 64.110-340.

1. Submit a written request to appeal any dental claim denial to the Division of Retirement and Benefits (DRB) at one of its offices in Juneau or Anchorage. *You must request DRB to file the appeal with OAH. You may not file an appeal directly with OAH.*
2. Two forms must be used as part of submitting an appeal to OAH:
 - AlaskaCare Retiree Health Plan Notice of Appeal, which will be sent to you by DRB with the final Moda appeal decision.
 - AlaskaCare Authorization for the Use and Disclosure of Protected Health, available at: <http://doa.alaska.gov/drb/pdf/forms/ben043.pdf>

Other documents submitted must be typed or printed on 8½ by 11-inch white paper and contain the following information:

- a. Your name, mailing address and contact telephone number;
- b. The date of the decision which is the subject of the appeal;
- c. A brief statement of the issue you are requesting OAH to review
- d. The name and address of DRB;

State of Alaska
Division of Retirement and Benefits: Dental Appeals
POB 110203
Juneau, AK 99811-0203

3. Mail your Level IV packet to the above address.
4. Once an appeal is filed, you will be notified by OAH. During the appeal, you are entitled to engage in any of the alternative dispute resolution procedures. These include mediation, settlement conference or



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arbitration. They are used to see if a mutually agreeable solution can be found before the appeal proceeds.

5. You will receive a routine letter that an Assistant Attorney General will represent the State or DRB. This is normal procedure. A person filing an appeal may be represented by an attorney but that is not required. Individuals may represent themselves in OAH appeals.

6. The administrative law judge (“ALJ”) assigned to your appeal will likely hold a pre- hearing conference to discuss the availability of alternative dispute resolution procedures. During the conference, the judge will discuss and establish the structure of and preparation for the hearing. You are entitled to request disclosure of any information that DRB or Moda may have that is relevant to your appeal. The ALJ may prohibit the disclosure of any confidential information and may close any portion of a hearing to protect the privacy of personal information.

7. The ALJ has 120 days from the date the appeal was received in the OAH to make a decision unless an extension is mutually agreed upon. The ALJ is required to forward the decision immediately after the appeal’s conclusion to DRB.

8. Although the OAH appeal is a formal legal proceeding, you are not required to be a lawyer or have specialized legal training or background to participate. In fact, the ALJ will likely make efforts to ensure you understand the process and your rights in a way you are able to understand. Do not be afraid or hesitate to ask the ALJ questions about anything you don’t understand or that is confusing.

If you still think you have been treated unfairly according to the plan or appeal procedures, the law allows you to appeal the matter to the Superior Court.

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We at RPEA would appreciate it if you would contact us and let us know the results of your appeal. It may help us with other retirees going through this process. Send it to: Sharon Hoffbeck, Chair, Retiree Benefits Committee: sharonhoffbeck@gmail.com.