

HETI CPD HOME

RECONSIDERATION, REVIEWS AND APPEALS

1 INTRODUCTION

HETI CPD Home is committed to providing a fair and reasonable, structured process for members to query or appeal a decision. It is also committed to using the outcomes of any of these processes to inform evaluation exercises and continuous quality improvement processes for the program.

There are three stages for HETI's CPD Home in reassessment of specified decisions:

1. Reconsideration – by the HETI CPD Home personnel or Clinical Lead responsible for the original decision
2. Review – by an internal Panel convened by HETI CPD Home Council
3. Appeal – to an Appeals Committee independent of the CPD Home Unit and HETI CPD Home Council

2 SCOPE AND PURPOSE

This policy outlines the way HETI CPD Home reconsiderations, reviews and appeals will be conducted and in which circumstances.

It only concerns decisions made by HETI CPD Home in relation to its members':

- Compliance with HETI CPD Home program requirements
- Compliance with CPD Registration Standard Requirements
- Compliance with HETI CPD Home policies and procedures

It does not apply to any other HETI program.

Further scope for redress may be available to members under the *NSW Health Grievance Policy*.

3 RECONSIDERATION

3.1 GROUNDS FOR RECONSIDERATION

In the context of the HETI CPD Home, requests for reconsiderations can be made about:

- A decision of “not compliant” in a HETI CPD Home audit (note that a similar finding of not compliant in a Medical Board of Australia audit is out of scope for HETI CPD Home)
- A decision that an individual CPD activity does not meet HETI CPD Home requirements
- A decision regarding eligibility to join the HETI CPD Home
- A decision relating to compliance with HETI policies and procedures

3.2 SUBMITTING A REQUEST FOR RECONSIDERATION

Requests for a reconsideration of a HETI CPD Home decision must be made within 30 days. Please include any relevant supporting documentation to substantiate the grounds specified in the application.

There are no fees for a reconsideration.

Requests must be made in writing to HETI CPD Home and must outline in detail the reasons why the applicant thinks the original decision was wrong.

3.3 RECONSIDERATION FEES

HETI CPD Home does not charge a fee for a reconsideration.

3.4 RECONSIDERATION PROCEDURE

Reconsiderations will be conducted internally by HETI CPD Home staff. The reviewer/s will consider:

- All original material relating to the contested decision
- Any new supporting documentation provided by the member contesting the original decision
- Any other relevant information, policies, procedures or resources

The reviewer/s may:

- Reconfirm the original decision
- Change the original decision

HETI CPD Home will endeavour to complete a review within 14 days of receipt of the request and all relevant supporting evidence. The member will be notified of the outcome within 7 days of the completion of the reconsideration process.

4 REVIEW

4.1 GROUNDS FOR REVIEW

In the context of the HETI CPD Home, requests for review can be made about:

- Error of fact or process
- Lack of procedural fairness
- New evidence is available that may influence the original decision
- Evidence was not considered in a consistent way

Substantiating evidence must be provided by the member requesting the review, which explains clearly why the grounds on which the review is based should be upheld.

4.2 SUBMITTING A REQUEST FOR A REVIEW

Requests for a review of a HETI CPD Home reconsideration decision outcome must be made within 30 days.

Requests must be made in writing to HETI CPD Home, meet the grounds for reconsideration (4.1) and include relevant documentation that supports the applicant's argument of why they believe the original decision was wrong.

4.3 REVIEW FEES

HETI CPD Home does not charge a fee for a review.

4.4 REVIEW PANEL

A review panel will be established by HETI and may include one or more of the following:

- HETI CPD Home Clinical Chair
- HETI CPD Home Staff
- A member of the HETI CPD Home Council

4.5 REVIEW PROCEDURE

Requests for a review of a HETI CPD Home reconsideration outcome must be made within 30 days from being advised of the decision.

Requests for a review of a HETI CPD Home reconsideration outcome must be made within 14 days.

The review will be conducted internally by the HETI CPD Home unit. The reviewer/s will consider:

- All original material relating to the contested decision
- Any new supporting documentation provided by the member contesting the original decision
- Any other relevant information, policies, procedures or resources

Records will be kept of the deliberations and decisions and may be used to inform evaluation and program improvement activities. Records may be required as evidence in the case of an appeal.

The reviewer/s may:

- Reconfirm the original decision
- Change the original decision

HETI CPD Home will endeavour to complete a review within 30 days of receipt of the request and all relevant supporting evidence.

Decisions will be communicated to the member within 7 days.

5 APPEAL

5.1 GROUNDS FOR APPEAL

An appeal may be made if the following is evident:

- An error in due process in the formulation of the original decision
- Relevant and significant information, whether available at the time of the original decision or which became available subsequently, was not considered or not properly considered in the making of the original decision
- Irrelevant information was considered in the making of the original decision
- Procedures that were required by the CPD home's policies to be observed in connection with the making of the decision were not observed
- The original decision was made for a purpose other than a purpose for which the power was conferred
- The original decision was made in accordance with a rule or policy without regard to the merits of the particular case; and
- The original decision was clearly inconsistent with the evidence and arguments put before the body making the original decision.

There are no other grounds for appeal.

5.2 APPEAL PROCEDURE

5.2.1 SUBMITTING AN APPEAL

Requests for an appeal of a HETI CPD Home review outcome must be made within 30 days from being advised of the original decision.

Requests must be made in writing to HETI CPD Home, meet the grounds for appeal (5.1) and include relevant documentation that supports the applicant's argument of why they believe the original decision was wrong.

5.2.1 ESTABLISHING AN APPEALS COMMITTEE

HETI CPD Home will convene an Appeals Committee (the Committee) which may include:

- HETI (not associated with original decision)
- Ministry of Health
- Independent members
- An independent Chair appointed by HETI

Nominees or appointee shall have no prior involvement in the decision being appealed.

HETI may appoint a person to be secretary to the Appeal Committee but who shall not be a member of the Appeal Committee nor have an entitlement to vote.

5.2.2 APPEALS COMMITTEE TERMS OF ENGAGEMENT

All other members of the Appeal Committee shall be entitled to vote in respect to the decision of the Committee.

Decisions of the Appeal Committee shall be carried on the basis of a majority vote. There shall be no second or casting vote for the Chairperson.

The Chairperson shall ensure that the rules of natural justice are observed. The rules of natural justice require procedural fairness to be applied. This includes:

- a) the provision of all relevant material in respect of the process to the relevant parties;
- b) the opportunity with an appropriate timeframe for the respective parties to have an opportunity to respond. This is called the hearing rule and is satisfied by an opportunity to respond in writing;
- c) adequate time to consider documentation and make submissions;
- d) adjudication on an unbiased basis. Bias can be pecuniary, that is there is a financial or other interest in the matter or non-pecuniary bias. This can include prior involvement in the process or predetermination or prior course of dealings. The apprehension of bias can be enough to infringe the rules of natural justice.

The Chairperson shall have the right to obtain legal advice in relation to the appeal process, subject to the approval of HETI.

5.2.2 APPEAL FEES

Appeal lodgement must be accompanied by a \$2000 fee.

Following receipt of the lodgement of the appeal, the applicant shall have another 30 days to provide additional documentation on the appeal including any aspect of the original decisions or process that the provider may wish to dispute.

5.2.3 APPEAL PROCEDURE

The Chair will convene a hearing of the Appeals Committee.

At least 28 days prior to the hearing, HETI will inform the appellant about:

- The date, time and location of the hearing
- All documentation relevant to the matter being appealed
- The members of the Appeals Committee
- Appellants rights to:
 - Query the membership of the Appeals Committee (i.e., for a conflict of interest). Note that this request should be made as soon as possible and for clearly outlined reasons, otherwise there may be delays in scheduling the hearing. Outcomes may include replacement of the member or a reduction in the size of the Appeals Committee.
 - Be present at the Appeals Committee to state their case. Appellants will be asked to confirm whether they wish to appear in person or will rely on a written submission.
 - Have legal representation (at their expense)

The Appeals Committee will review:

- a) a copy of any relevant logged CPD activity relevant to the decision being appealed.
- b) any substantiating information or documentation relating to the CPD activity.
- c) any documentation relating to a reconsideration or review of the decision being appealed.
- d) any further documentation that the appellant may have provided in support of the appeal.
- e) Information about communications between HETI CPD home and the appellant that may be relevant to the original decision.
- f) Any information provided by the appellant in person in support of their appeal.
- g) Any policies, regulations or procedures that are relevant to the matter.

5.2.4 DECISIONS

The Committee may decide that an appeal is:

Allowed – in which case action will be taken to remedy the member’s CPD portfolio or the HETI CPD Home will record that it will accept CPD activities or substantiating evidence as eligible for inclusion in the member’s CPD portfolio.

Rejected – in which case the member may be found to still be non-compliant with registration and CPD Home requirements.

The Chairperson of the Appeal Committee shall advise the Chief Executive of HETI and the HETI CPD Home Manager of the recommendation of the Appeal Committee. This can be in the form of either Minutes of the Appeal Committee or a letter providing the recommendation including the reasons.

The appellant will be informed of the decision within 7 days.

The decision of the Appeals Committee is final. However, if the member is unsatisfied with the outcome of the appeal, they may consider action, if appropriate, under the *NSW Health Grievance Policy*.

HETI CPD Home will retain a record of the appeal to inform evaluation and program improvement activities and to ensure that documentation about the process is available should the applicant seek any other form of redress.

5 CONTACTING HETI CPD HOME

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HEALTH
EDUCATION
& TRAINING

This version	
Approved by	
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