



15 February 2019

Administrative instruction

Resolution of disputes relating to medical determinations

The Under-Secretary-General for Management Strategy, Policy and Compliance, pursuant to section 4.2 of Secretary-General's bulletin [ST/SGB/2009/4](#), and for the purpose of implementing staff rules 6.2 (j)–(l) and article 5.1 of appendix D to the Staff Rules of the United Nations and establishing conditions and procedures for medical reviews by an independent medical practitioner or a medical board, promulgates the following:

Section 1

General provisions

1.1 The present instruction establishes the procedures for resolving disputes relating to any medical determination by the United Nations Medical Director or a medical practitioner duly authorized by the Medical Director.

1.2 A request for review of a medical determination does not have the effect of suspending the implementation of any administrative decision taken on the basis of the contested medical determination.

1.3 If there is a conflict of interest, independent medical practitioners or Chairs of medical boards selected to conduct the review of the contested medical determination must recuse themselves. A conflict of interest shall comprise any instance in which such medical practitioner's professional or personal relationships, activities or interests may impair or reasonably give the appearance of impairing the practitioner's impartiality and independence. Former employees of a United Nations organization, regular treating physicians and members of the same medical office as regular treating physicians of the staff member must not act as an independent medical practitioner or as the Chair of a medical board.

Section 2

Requests for review and scope

2.1 Requests for review of medical determinations shall be submitted by staff members within 60 calendar days of the date on which they received notification, electronically or in hard copy, of the administrative decisions based on the contested medical determination.

2.2 Staff members shall submit their requests in writing to one of the following:



(a) The secretary of the Advisory Board on Compensation Claims, who shall forward the request to the Medical Director, regarding claims filed under appendix D to the Staff Rules;

(b) The Medical Director or a duly authorized medical officer, for all other medical disputes.

2.3 Staff members shall include in their application whether they request a review of the medical determination by an independent medical practitioner, in accordance with the procedures set out in section 3 below, or by a medical board, in accordance with the procedures set out in section 4 below.

Terms of reference

2.4 Once the request for review is received, the Medical Director shall draft the proposed terms of reference of the independent medical practitioner or medical board, together with any necessary guidance, and shall provide them to the staff member.

2.5 The terms of reference shall include the following:

(a) The scope of the review, which shall be limited to the medical aspects of the contested medical determination;

(b) The maximum fees per hour and the reimbursable expenses of the independent medical practitioner or medical board conducting the review, which shall be based on reasonable and customary rates applicable to the location, qualification and specialization of the participants, and the expected duration of the review.

2.6 The staff member may suggest amendments within 14 calendar days of receipt of the terms of reference. The Medical Director shall have the discretion as to whether to incorporate the staff member's suggested amendments into the proposed terms of reference. The Medical Director shall promptly provide the staff member's application and the final terms of reference to the staff member and the independent medical practitioner or medical board that will conduct the review.

2.7 The Medical Director should engage the medical practitioners conducting the review through an appropriate individual contractor or consultancy arrangement.

2.8 The projected costs of the review shall be agreed to by the Assistant Secretary-General for Human Resources or an official with delegated authority before engaging an independent medical practitioner or the members of a medical board.

Basis of the review

2.9 The review by an independent medical practitioner or medical board shall be based on the documentation available when the contested medical determination was issued. Staff members may be required by the independent medical practitioner or medical board to undergo further medical examinations or diagnostic tests. Any costs associated with these additional examinations or tests shall form part of the expenses of the independent medical practitioner or medical board. If staff members refuse to undergo the additional examinations or tests, the review of the contested medical determination shall be denied.

2.10 Where a request for review is based on new medical information or on a change in medical circumstances after the original medical determination was made, the Medical Director or a duly authorized medical officer shall either confirm the original determination or issue a new one as follows:

(a) Should the original medical determination be confirmed, the review of the medical determination shall continue in accordance with the procedures described in section 3 or 4 below, as applicable;

(b) Should there be a new medical determination by the Medical Director, the staff member shall, within 30 days, take one of the following steps:

- (i) Agree to the new determination and withdraw the request for review;
- (ii) Request for an independent medical practitioner or medical board to proceed with the review of the new medical determination in accordance with the procedures described in section 3 or 4 below, as applicable.

2.11 Once an independent medical practitioner has been appointed in accordance with the procedures set out in section 3 below or a medical board has been convened in accordance with the procedures set out in section 4 below, any new medical information or change in medical circumstances must be promptly brought to the attention of the independent medical practitioner or the Chair of the medical board, as applicable, who may accept or reject it on the basis of its relevance to the terms of reference.

Section 3

Review by an independent medical practitioner

3.1 An independent medical practitioner shall be a qualified medical practitioner who is licensed to practise in the area of medicine that the Medical Director has determined relevant for the review. The independent medical practitioner shall work in an official language of the United Nations.

Procedure

3.2 Where a staff member requests a review by an independent medical practitioner, the Medical Director shall propose a medical practitioner to perform this function and provide the proposed medical practitioner's curriculum vitae and associated fees to the staff member.

3.3 The proposed independent medical practitioner shall be considered accepted if, within 14 calendar days of receipt of the proposal, the staff member does not refuse the medical practitioner proposed by the Medical Director.

3.4 If the proposed independent medical practitioner is refused, the staff member shall provide reasons for such refusal. The Medical Director shall then propose a new independent medical practitioner in accordance with the procedure described in sections 3.2 and 3.3 above. The request for review shall be deemed withdrawn after the staff member's third refusal of the proposed practitioner.

3.5 The independent medical practitioner shall submit to the Medical Director and the staff member a report containing a reasoned opinion and advice as to whether to confirm, modify or reject the contested medical determination, in line with the terms of reference and written in an official language of the United Nations.

Section 4

Review by a medical board

Composition

4.1 A medical board shall be composed of the following three members:

- (a) A qualified medical practitioner selected by the staff member;
- (b) The Medical Director or a medical practitioner designated by the Medical Director;
- (c) An independent medical practitioner selected by agreement between the other two members.

4.2 Staff members must provide information on the fees of the medical practitioner they have selected to the Medical Director within 30 calendar days of the finalization of the terms of reference. The fees of the medical practitioner selected by the staff member shall not exceed those established in the terms of reference in accordance with section 2.5 (b) above.

4.3 The third independent medical practitioner selected by the other two members of the medical board shall be the Chair of the board. If the other two members do not reach an agreement, the Medical Director must refer the decision to an appropriate external medical authority, who shall select the Chair. The fees of the Chair shall not exceed those established in the terms of reference in accordance with section 2.5 (b) above.

Procedure

4.4 The members of the medical board shall meet in a location and manner determined by the Chair, including in person, by teleconference or by videoconference. Necessary travel must be authorized by the Medical Director before it is undertaken and shall be considered as official business travel governed by administrative instruction [ST/AI/2013/3](#) on official travel. Travel costs shall be considered part of the expenses of the medical board.

4.5 The Chair shall provide a report in line with the terms of reference, written in an official language of the United Nations and containing the following:

- (a) The majority view advising, in a reasoned opinion, as to whether to confirm, modify or reject the contested medical determination;
- (b) A dissenting opinion, if any.

The report shall be signed by the Chair and submitted to the Medical Director and the staff member.

Section 5

Implementation of advice issued by an independent medical practitioner or medical board

5.1 The Medical Director shall review the report of the independent medical practitioner or medical board and assess whether it is in line with the terms of reference provided, and shall take one of the following actions:

(a) When the report is in line with the terms of reference and it is advised to reject or modify the contested medical determination, the Medical Director shall rescind the contested medical determination and issue a new medical determination, taking into account the advice provided by the independent medical practitioner or medical board;

(b) When the report is not in line with the terms of reference, the Medical Director may either request the independent medical practitioner or medical board to revise the report in order to align it with the terms of reference or confirm the contested medical determination.

5.2 Staff members who have contested a medical determination and officials who have taken administrative decisions on the basis of the original medical determination shall be promptly informed of the outcome of the review of the report by the Medical Director and of any new medical determination taken as a result thereof. Staff members shall also be informed of any subsequent modified or new administrative decisions taken on the basis of a new medical determination.

Section 6

Cost recovery and payment

6.1 If the disputed medical determination is confirmed, if the proposed modifications have no effect on any administrative decision taken on the basis of the contested medical determination or if the staff member withdraws the request for review after the review has begun, the following expenses shall be borne by the staff member, as applicable:

(a) The medical fees and any expenses of the independent medical practitioner;

(b) The medical fees and expenses of the Chair and of the practitioner selected by the staff member.

6.2 The costs of the Medical Director or the medical practitioner designated by the Medical Director to be a member of the medical board shall be borne by the Organization.

6.3 If the contested medical determination is not confirmed and its revision triggers a modification of an administrative decision taken on the basis of the contested medical determination, the expenses of the independent medical practitioner or medical board shall be borne by the Organization.

Section 7

Application for review by the United Nations Dispute Tribunal

In accordance with staff rule 11.2 (b), staff members wishing to formally contest an administrative decision taken pursuant to advice obtained from an independent medical practitioner or a medical board are not required to request a management evaluation before filing an application to the United Nations Dispute Tribunal.

Section 8

Final provisions

The present instruction shall enter into force on the date of its issuance.

(Signed) Jan **Beagle**
Under-Secretary-General
for Management Strategy, Policy and Compliance
