

MANITOBA HEALTH APPEAL BOARD POLICIES

DATE REVISED: NOVEMBER 2, 2023

POLICY TITLE

MANITOBA HEALTH APPEAL BOARD RULES OF PROCEDURE

POLICY STATEMENT #4

POLICY

The Manitoba Health Appeal Board has adopted the following Rules of Procedure for the orderly conduct of Appeal hearings. Appeal hearings will be conducted in an informal, friendly and relaxed manner.

1. The Board will follow the rules of natural justice, fairness and due process.
2. The Board will receive and accept such evidence and information verbally, by affidavit or otherwise as the Board in its discretion sees fit, whether admissible in a court of law or not.
3. All parties have a right to file a brief and evidence for the hearing. This includes submitting their position in writing and providing all relevant documents such as letters, e-mails, medical reports, invoices, and all applicable policies and legislation. These materials are to be submitted to the Board office in accordance with the filing dates established by the Board Administrator, which will be provided to the parties at the time the appeal is acknowledged.

The Board Administrator has the authority to consider and grant a request for the extension of the filing dates up to an additional ten (10) business for all appeals.

If further evidence becomes available after the filing or extended filing date, the Board will consider a request to file additional evidence at the commencement of the hearing. The party who has the additional evidence must provide the other party with a copy of the material prior to the hearing date or, if that is not possible, before the start of proceedings on the day of the hearing.

If an Appellant submits late-filed evidence to the MHAB prior to the appeal package being sent to panel members, the late-filed evidence will be included in the appeal binders if Manitoba Health has not opposed the acceptance of the late-filed evidence.

All parties involved in the appeal will have access to the same information. No additional information will be accepted by the Board following the completion of the hearing unless specifically requested or agreed to by the Board.

4. There will be a recording of the hearing only by the Manitoba Health Appeal Board. Parties in attendance are entitled to take their own notes during the hearing.
5. Documents received in evidence at a hearing will be marked "Exhibit" and numbered and dated.
6. Parties to a hearing have a right to attend the hearing and/or be represented by legal counsel or by another person who has the appropriate legal authority or who the parties have designated in writing as their representative or a support person.

Parties also have a right to call and question witnesses at the hearing. At the time of the hearing, the Board will determine whether witnesses will be allowed to be present for the whole hearing or only during the period required for their testimony.

The Board will not be responsible for any costs associated to a party's attendance and/or representation at the hearing or any costs associated to the attendance of any witnesses or support persons for the parties.

The cost of an interpreter will be covered if requested through the Board. The Board will arrange for a professional interpreter.

7. Communication during the Appeal Hearing:
 - The Chairperson of the Board will request that each person present at the hearing introduce himself/herself;
 - The Appellant (or his/her counsel or representative) will be heard first;
 - The Respondent (or its counsel or representative) will be heard second;
 - Both Appellants and Respondents are required to direct their comments to the Chair and Board members;
 - The Board may ask questions for clarification at any time.
8. The Board will strive to provide a written decision to both the Appellant and the respondent within twelve weeks of the hearing date.

9. Where notice of a hearing has been duly provided but an Appellant and/or representative or the Respondent fails to attend on the hearing date, the Board may proceed with the hearing to make a determination on the appeal based on the written material filed by both parties for the hearing and the oral presentation of the Respondent. Alternatively, the Board may direct that the hearing be rescheduled to a later date.
10. The Board authorizes the Administrator to review all appeals received and ensure that they are filed in accordance with the Boards' governing legislation, mandate and policies. Appeals not in accordance will be closed in consultation with the board chair and where possible referred to the appropriate governing office. Incomplete appeals will be requested for the outstanding information prior to opening an appeal.
11. Where an Appellant has failed to actively pursue an appeal within six months after the initial filing date, the Board's Administrator will inform the MHAB Chairperson of the Appellant's failure to actively pursue the appeal and ask for direction as to whether the appeal file should be closed. Thereafter, requests to revive the appeal require the Chairperson's approval.
12. Decisions of the Board will be posted on the CanLII website (<https://www.canlii.org/en/mb/mbhab/>) beginning in 2015. Identifying information will be removed from all decisions prior to posting. The Board has decided to post appeal decisions for the following purposes: transparency, fairness, educational and research value.
13. The MHAB collects personal health information with briefs that are submitted for appeal hearings. All briefs are shared with the parties and with the Appeal Panel for appeal preparation purposes. Personal health information is also contained in the appeal hearing recording. The MHAB will comply with the provisions of the *Personal Health Information Act* and will assist individuals who request a copy of their personal health information. Information related to accessing personal health information can be found at the Ombudsman Office www.ombudsman.mb.ca/info/access-and-privacy-division.html.