

**441—83.109 (249A) Appeal rights.** Notice of adverse actions and right to appeal shall be given in accordance with 441—Chapter 7 and rule 441—130.5(234).

**83.109(1) Appeal to county.** Rescinded IAB 2/7/01, effective 2/1/01.

**83.109(2) Reconsideration request to IME medical services unit.** After notice of an adverse decision by the IME medical services unit on the level of care requirement pursuant to paragraph 83.102(1)“h,” the Medicaid applicant or recipient or the applicant’s or recipient’s representative may request reconsideration by the IME medical services unit by sending a letter requesting a review to the IME medical services unit not more than 60 days after the date of the notice of adverse decision. Adverse decisions by the IME medical services unit on reconsiderations may be appealed to the department pursuant to 441—Chapter 7.

*a.* If a timely request for reconsideration of an initial denial determination is made, the IME medical services unit shall complete the reconsideration determination and send written notice including appeal rights to the Medicaid applicant or recipient and the applicant’s or recipient’s representative within ten working days after the IME medical services unit receives the request for reconsideration and a copy of the medical record.

*b.* If a copy of the medical record is not submitted with the reconsideration request, the IME medical services unit will request a copy from the facility within two working days.

*c.* The notice to parties. Written notice of the IME medical services unit’s reconsidered determination will contain the following:

- (1) The basis for the reconsidered determination.
- (2) A detailed rationale for the reconsidered determination.
- (3) A statement explaining the Medicaid payment consequences of the reconsidered determination.
- (4) A statement informing the parties of their appeal rights, including the information that must be included in the request for hearing, the locations for submitting a request for an administrative hearing, and the time period for filing a request.

*d.* If the request for reconsideration is mailed or delivered to the IME medical services unit within ten days of the date of the initial determination, any medical assistance payments previously approved will not be terminated until the decision on reconsideration. If the initial decision is upheld on reconsideration, medical assistance benefits continued pursuant to this rule will be treated as an overpayment to be paid back to the department.