

**CHAPTER 75-02-05
PROVIDER INTEGRITY**

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SECTION 1. Subsection 13 of section 75-02-05-07 is amended as follows:

75-02-05-07. Activities leading to and including sanction.

13. When the division determines there is a need to sanction a provider, the director of the division, or the director's designee, shall notify the provider in writing of the sanction imposed. The notice must advise the provider of the right of appeal to a review, when applicable.

History: Effective July 1, 1980; amended effective July 1, 2012; April 1, 2014.

General Authority: NDCC 50-24.1 04

Law Implemented: NDCC 50-24.1-04, 50-24.1-36; 42 CFR 455.13, 42 CFR 455.14, 42 CFR 455.15, 42 CFR 455.16, 42 CFR 455.17, 42 CFR 455.23

SECTION 1. Section 75-02-05-09 is amended as follows:

75-02-05-09. Appeal Review and reconsideration appeal.

1. A provider may not appeal request a review of a temporary sanction until further investigation has been completed and the division has made a final decision.
2. After completion of further investigation, if there is an imposition of a subsequent sanction, the provider may appeal the decision to impose sanctions unless the sanction imposed is termination or suspension and the notice states that the basis for the sanction is:
 - a. ~~The provider's failure to meet standards of licensure, certification, or registration where those standards are imposed by state or federal law as a condition to participation in the medicaid program.~~
 - b. ~~Because the provider has been similarly sanctioned by the medicare program or by another state's medicaid program.~~
3. ~~An appeal must be filed with the department within thirty days of the date the notice of sanction is mailed to the provider~~ request a review of the

sanction pursuant to subsection 6 of North Dakota Century Code section 50-24.1-36.

- ~~4. Appeals taken are governed by chapter 75-01-03, and providers will be treated as claimants under that chapter.~~
- ~~5. Without prejudice to any right of appeal, the provider, upon receipt of notice of decision may in writing, request reconsideration. The request for reconsideration must include a statement refuting the stated basis for the imposition of the sanction. The division shall, within ten days after receipt of a request for reconsideration, make written response to the request, stating that imposition of the sanction has been affirmed or reversed~~
3. A provider who is aggrieved by the decision the department issues in response to a request for review may appeal as set forth in subsection 6 of North Dakota Century Code section 50-24.1-36.

History: Effective July 1, 1980; amended effective July 1, 2012; April 1, 2014.

General Authority: NDCC 50-24.1-04

Law Implemented: NDCC 23-01-03, 23-16-01, 23-17.1-01, 23-20.1-04, 23-27-01, 25-16-02, 26.1-18-02, 43-05-09, 43-06-08, 43-12.1-03, 43-13-15, 43-15-15, 43-17-34, 43-26-13, 43-28-10, 43-32-17, 43-33-02, 43-37-03, 50-11.1-03, 50-24.1-36; NDAC 75-01-03; 42 USC 1396a(a)(39); 42 CFR 431.151; 42 CFR 455.13