

What is a Fair Hearing?

A fair hearing is an administrative hearing or a private medical review hearing held by hospital medical staff to resolve issues involved with a physician's clinical privileges and medical staff membership. In some cases, a provider's privileges are restricted or revoked as a result of the hearing. The fair hearing process follows the hospital's By-Laws and is peer-review-protected by the Health Care Quality Improvement Act (HCQIA) of 1986.

Who are the participants in a fair hearing?

The participants generally involved in a fair hearing are the physician who is the subject of the review; the hearing panel, which is composed of selected physicians who would be familiar with the subject matter and/or serve on a medical evaluation committee; usually the CEO; the hospital attorney; and the physician's attorney, if he/she has one.

What is my role during a fair hearing?

During a fair hearing a peer reviewer (PR) is responsible for answering questions related to his/her clinical review of the cases, discuss what his/her findings were, and provide the rationale for his/her determination. There is generally no dialogue between the physician under review and the CIMRO PR; all questions are posed by the hospital's attorney, the involved physician's attorney, and the hearing panel.

Where are fair hearings conducted?

Fair hearings may be conducted onsite at the hospital or neutral office, or via videoconference or teleconference, depending on the hospital's request and the PR's availability to travel onsite. Most of our clients prefer the physical presence of our PR at their facility, which would involve travel and an overnight stay. Fair hearings are generally conducted in the late afternoon or evening. The PR's portion of the hearing is generally toward the beginning of the meeting, and usually lasts a few hours at most.

Am I allowed to prepare for the fair hearing?

Absolutely. The CIMRO PR is provided copies of the records he/she reviewed and may use the completed PR Worksheets that were originally provided with the records and CIMRO's final report for reference. Also, if desired, CIMRO staff can arrange for a discussion with a CIMRO PR who has participated in fair hearings to provide greater insight into the process. Additionally, CIMRO staff will assist in coordination efforts with the facility to minimize time spent in the logistics.

What is the compensation?

Fees associated with fair hearing participation are established by the PR and cover the preparation and actual testimony time, and all associated travel expenses are covered. Most often a daily rate is established to accommodate meeting and travel time.

What is my liability?

The Health Care Quality Improvement Act of 1986 (“HCQIA”) provides good faith immunity from state and federal liability for persons participating in the peer review process. Federal courts have applied this many times. CIMRO’s contracts specifically address the fact that our peer review decisions are considered part of internal quality improvement processes, which further affirms the protections afforded under HCQIA.

CIMRO maintains a professional liability policy, which applies to peer reviewers. That policy currently has limits of \$1,000,000.00 per occurrence and \$3,000,000.00 in the aggregate.

Do I have to agree to participate in fair hearings to be a CIMRO PR?

No. We do occasionally have PRs who prefer not to participate or to release their Curriculum Vitae. When we receive cases where there is a possibility for a fair hearing, we do not contact those PRs for the review. CIMRO does have a number of reviewers who have participated in fair hearings, and they have expressed that it is a positive learning experience for them.