Nova Scotia Department of Health
Continuing Care Branch

Subject: **Financial Decision Review Policy**

Approved On: May 30, 2005. Replaces Policy Dated: January 31, 2005.

Approved By: ***Original Signed By***

Keith Menzies, Executive Director, Continuing Care Branch

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1. Application

This policy describes a review and an appeal mechanism for decisions made by the Department of Health regarding *financial assistance*, authorized *accommodation charges, or facility per diem rates* for residents or applicants of long term care facilities.

2. Legislation

2.1. Decisions related to *financial assistance* are conducted pursuant to the *Social Assistance Act* and regulations as well as the long term care policies of the Department of Health.

2.2. Decisions related to the *authorized accommodation charge* and *facility per diem rates* are conducted pursuant to the *Homes for Special Care Act* and regulations as well as the long term care policies of the Department of Health.

3. Definitions

3.1. *"Financial assistance"* is assistance received by a "pre-2005 publicly assisted" resident to pay: the "Maximum Accommodation Charge" and/or "Special Needs". These quoted terms are defined in the Resident Charge and Special Needs policies of the Department of Health's *Long Term Care Policy Manual*.

3.2. *"Authorized accommodation charge"* and the *"facility per diem rate"* are daily charges authorized by the Department of Health as per the Resident Charge Policy, *Long Term Care Policy Manual.*

3.3. *"Applicant"* is defined as a resident of a long term care facility or a person seeking admission to a long term care facility.

3.4. "*Authorized representative*" is defined to mean:
- any person acting on the *applicant*'s behalf where the *applicant* has given written permission; or
- a person with enduring power of attorney or power of attorney for the *applicant*; or
- the individual legal guardian appointed pursuant to the *Incompetent Person' Act*; and
- shall not be an employee of the Nova Scotia Department of Health unless that employee is acting on behalf of a member of their family.

3.5. "Original decision-maker" is defined as the Department of Health employee who made the original financial determination regarding *financial assistance* or an *authorized accommodation charge* or *facility per diem rate* of which the *applicant* or *authorized representative* disagrees.

3.6. *"Appeals Tribunal"* is defined as the tribunal established pursuant to the *Employment Support and Income Assistance Act*, and is referenced in the *Social Assistance Act*.

4. Administrative Review

4.1. The *applicant* or *authorized representative* may request an administrative review with respect to the following: *financial assistance*, *authorized accommodation charge, or facility per diem rate.*

4.2. The purpose of the administrative review is twofold:

- To ensure that *applicant* or *authorized representative* receive clear explanations of financial determinations; and

- To provide a timely, administrative process that allows for a second assessment of the original decision.

4.3. In all cases where a financial determination has been made a written notice must be provided to the *applicant* or *authorized representative*:
- The decision,
- The effective date of the decision,
- The appropriate legislative authority for reaching the decision,
- All reasons for the decision,
- The right to an administrative review,
- The rules, procedures or requirements of the administrative review process, and
- The right to appeal to the *Appeals Tribunal*. (This right only applies to appeals related to financial assistance as outlined in section 2.1 above.)

4.4. The *applicant* or *authorized representative* has thirty (30) days from the day the decision is received, or deemed to be received, to submit a written application for an

administrative review, if there is disagreement with the decision. (Forty-five (45) days will be accepted if there are extenuating circumstances.)

4.5. Written applications for an administrative review may be submitted by mail or in person. See the Appendix for the appropriate form. The application must contain:
- A statement that the *applicant* or *authorized representative* wishes to have a review of the decision,
- The reason for disagreeing with the decision, and
- The name, signature, address and telephone number of the person requesting the review.

4.6. The administrative review must be completed within 10 calendar days after the receipt of the administrative review request.

4.7. The *original decision-maker* must:
- Ensure that the file is prepared for an administrative review with documented decisions and all supporting information used in the decision making process.
- Be available to answer questions that the reviewer may have regarding the original decision.
- Not be the reviewer of the decision for the administrative review.

4.8. The reviewer must:
- Be authorized to conduct internal reviews and must have the same or higher level of decision-making authority as the *original decision-maker*.
- Confirm that he/she did not participate in any way in the original decision.
- Document the administrative review process.
- Examine the file and the original decision.
- Determine if the original decision was:
  - Fair, based on law, merits of the case and all relevant facts,
  - Consistent with legislation and policies, and
  - Not the result of administrative error.
- Make a decision to confirm, vary or reverse the original decision and clearly summarize the reasons for arriving at the decision.

4.9. Once a decision is made, a written decision letter that summarizes the results of the review process must be sent to the *applicant* or *authorized representative*. It must explain:
- The reviewer's decision,
- The information reviewed in making the decision,
- The rationale for the decision, and if applicable,
- The right to appeal to the *Appeals Tribunal* and the time limit and procedure for appeal to the *Appeals Tribunal*.

4.10. For decisions regarding the *authorized accommodation charge or facility per diem rate*, the reviewer's decision is final and not eligible for an *Appeals Tribunal* hearing.

5. Appeals Tribunal Hearings

5.1. The purpose of the *Appeals Tribunal* hearing is to provide an *applicant* or *authorized representative* with the opportunity to appeal decisions regarding *financial assistance* and to ensure that the appeal process is consistent with the legislation and policies.

5.2. The *applicant* or *authorized representative* cannot proceed to the *Appeals Tribunal* without written confirmation that an administrative review was requested and completed.

5.3. To request to continue the *Appeals Tribunal* stage, the *applicant* or *authorized representative* will have ten (10) days to respond to the Coordinator of Appeals in writing (address: Coordinator of Appeals, Department of Community Services, P.O. Box 696, Halifax, Nova Scotia B3J 2T7). Twenty (20) days will be accepted in extenuating circumstances.

5.4. If the *applicant* or *authorized representative* does not respond within the given timeframe, the Coordinator of Appeals will notify the Department of Health, and the Department will record that the *applicant* or *authorized representative* accepts the outcome of the administrative review.

5.5. If the *applicant* or *authorized representative* does respond within the given timeframe, the Coordinator of Appeals will schedule the appeal and send notification of the date, time and place of the hearing by registered mail to the *applicant* or *authorized representative* ten (10) days prior to the hearing.

6. Interpretation of Dates

6.1. When calculating dates as defined in legislation, regulations and policy, they shall be calculated according to the *Interpretation Act*, section 19(k) and section 7(j).

6.2. The date a decision is communicated or an application for an appeal is received is not counted as the start date for the required timeline. Time line for completion commences on the day following communication.

- If the due date falls on a Saturday, work must be completed by the preceding Friday
- If the due date falls on a Sunday, work is due on the following Monday
- If the due date falls on a holiday, work is due the next day, which is not a holiday.

NOVA SCOTIA
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Appendix
Revised Jan/2005

Review Request
Financial Decisions – Long Term Care

Full name of applicant

Address of applicant

Health card number

Review is being requested by: ☐ applicant or ☐ other (please provide details)

Name tel #

Address

Relationship to applicant

Will the applicant be represented by legal counsel during the review?

☐ yes ☐ no ☐ don't know If yes, (please provide details)

Name tel #

Address

Please give details of decision for which a review is requested. (if applicable, attach copy of decision or correspondence from Department of Health)

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Please outline the reasons for your review request. Please provide documentary evidence to support your request. *(Please reference relevant facts, policy and/or law.)*

Name Signature Date