



Discharge Appeals Rights

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Introduction

- The laws that regulate Medicare beneficiary appeal rights provide protection to the liability the beneficiary could have.
- **Purpose of Appeals**
 - To establish an immediate review process when a beneficiary received a termination letter or a discharge notification, if the beneficiary/relative, disagree with the termination of services,
 - Protect beneficiary rights
 - Establishes financial liabilities
 - Gives notice of impending discharge to beneficiary and family





Fast Tract Appeals for:

- Skilled Nursing Facilities
- Home Health Agencies
- Comprehensive Outpatient Rehabilitation Facilities

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Medicare Advantage Fast Track Appeal (Grijalva)

- In 1993, a class action lawsuit brought by beneficiaries enrolled in the Medicare Managed Care Organization challenge the adequacy of the managed care appeal process.
- As a result of a settlement agreement, CMS established that an independent review entity (the QIOs) will conduct fast track review of appeals of decision to terminate services in SNFs, HHAs and CORFs.
- MA appeals began on January 2004



Appeal Process

- Termination occurs when the MA organization decides to discontinue coverage of services currently being provided. All the MA enrollees have the right to request a QIO a fast tract review.
- The MA Plan should delivered a Notice of Medicare non- coverage that will contained the date the service will end. This notice provide standardized information and instructions on how to initiate an appeal, if necessary.



Appeal Process

- The notice should be given regarding if the beneficiary/relative agree with the discharge, at least two days before the discharge in SNF and on the next to last visit for HHA and CORF patients.
- The notice should be signed and dated.
- **The following will invalid the notice:**
 - Wrong form
 - Missing documentation
 - Wrong time frame
 - Not signed and dated
- If the notice is invalid, it must be corrected or re-issued as appropriate. MA organizations are financially liable for continued services until two days after the beneficiary has received a valid notice.
- Invalid notices cost money, waste time, and confuse the patient.



Generic Notice

- **The Notice of Non-coverage needs to follow CMS regulations**
 - Use of the correct and current form 10095A
 - Have the correct size/type font
 - Contain the complete official content exactly with no additions or deletions by the MAO
 - Be a two page document
 - Have correct CMS form number and CMS specified verbiage printed at the bottom of the last page
 - Have the correct OMB number on the first page



Generic Notice

- **If the beneficiary/representative refuses to sign the notice:**
 - Provide the information to him/her verbally.
 - May be done in person or over the phone to the family.
 - Document that the beneficiary/representative refuses to sign the Notice . This documentation is written in the “Additional Information” section on page 2.
- The appeal must be made no later than noon on the day before the effective date .



Detailed Notice

- If the discharge is appealed a “Detailed Notice” must be issued
- The Detailed Notice provides
 - In-depth clinical information specific to this beneficiary progress and goals
 - Specific Medicare coverage rules and policy used to make the discharge decision
 - A copy of this notice must be provided to the beneficiary/representative and to QIPRO



Process

- Notice is issued by the MA plan
- The beneficiary representative call for an appeal
- QIPRO call the MA and the provider reporting that an appeal was made and requesting:
 - The termination letter and the detailed notice from the MA.
 - The copy of the record from the provider (failure to submit the record in the time frame of request, results in a delay in review. The beneficiary is not responsible for any cost associated with the delay)
- The record is reviewed by QIPRO physician reviewer who determine if the beneficiary is ready to be discharged from skilled services
- The beneficiary/relative, provider, and MA plan are notified of the decision (first by phone, followed by a written notice)

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Process

- If beneficiary/relative disagree with QIPRO decision, they have the right to request a reconsideration of the original determination. The beneficiary does not have the same financial protection in place during the second review.
- The record will be reviewed by a physician not involved in the original decision.
- If the reconsideration does not go in the beneficiary's favor, they can appeal to the Administrative Law Judge. This appeal is only for financial issues.



When not to issue a notice

- Admission to a higher level of care
- Move out of area
- Sign up for hospice
- Unsafe environment
- Exhaustion of benefits





Hospital Discharge Appeals Rights

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Hospital Discharge Appeals Rights

- **Hospital based notice appeal (HBNA)**
-Weichart vs Leavitt

- Section 1154 y 1866(a)(l)(M) of the Social Security Act had changes as result of the lawsuit.
- The purpose is to establish review requirements for how hospitals must notify Medicare beneficiaries who are hospital inpatients about their discharge appeal rights.
- The process to distribute the “Important Message” changed, as well as, the “Important Message”.



Hospital Discharge Appeals Rights

- This new task was implemented on July 2, 2007 and is the responsibility of the Hospital
- **Important Message from Medicare Notice**
 - Timing of Initial copy
 - Within 2 days of inpatient admission; or
 - During pre-registration visit, but not more than 7 calendar days prior to admission
 - Timing of Follow-Up Copy
 - As soon as possible when discharge is planned, but no more than 2 days before
 - Avoid routine delivery of follow-up IM on day of discharge
 - Not required if initial copy given within 2 calendar days of discharge

When not to issue

- Acute transfers
- Preadmission/Admission for services that are not reasonable and necessary, or for services Medicare never cover
- Exhaustion of benefits



Detailed notice

- If the beneficiary appeal, the Hospital must prepare a detailed notice
- If the beneficiary has a Medicare Advantage Plan or PPO under an Advantage Plan and the reason for the discharge is that the plan denied extension of days, the Plan need to issue the detailed notice.
- Must include specific information about patient's medical condition, explained in simple terms that can be understood by a non-professional person.



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Payment Responsibilities

- If the QIO agreed with the discharge, the patient's responsibility begin at noon of the next day when QIPRO notify its decision.
- If the QIO agreed with the beneficiary that he/she must continue with the services, he/she will not be responsible for the payment of the stay, only the copayments and deductibles.



Late Appeal Request

- If the beneficiary submit an appeal after the day of the discharge and is a member of a Medicare Advantage Plan, he/she must contact the MA Plan. They are responsible to solve the appeal.



QIO Responsibilities

- Accept and review the appeal 7 days a week (7/24)
 - QIPRO has personnel available during weekends and holidays.
- Have a phone with voicemail capacity to record messages for appeals out of regular working hours.
- Notify hospital/facility and MA Plan, the patient/relative appeal as soon as is received.
- Receive and review the medical record.
- Determine if the letter and delivery time are valid.
- Request the point of view of the beneficiary/relative, hospital and/or Medicare Advantage Plan.
- Make a decision in the required time period (24-72 hrs).



Reconsiderations

- If the patient disagree with the QIO decision, he/she may request a reconsideration.
 - The reconsideration will be made by a different physician from the initial decision.
 - The beneficiary will not have any protection for payment responsibility purposes during the reconsideration process.
 - QIPRO has 72 hours to make a decision.



For more information

- **More information about Discharge' Appeals can be accessed at www.cms.hhs.gov/BNI/**
 - Under Beneficiary Notices Initiative (BNI) menu, go to “Hospital Discharge Appeal Notices”
 - For Grijalva access MA ED notices
 - In the page, you will find all the information in the menu located at the left side.
 - Also, the information can be accessed www.qipro.org, under Providers (Provedores).



Contact

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