



Center for Medicaid and State Operations/Survey and Certification Group

Ref: S&C-07-28

DATE: July 13, 2007

TO: State Survey Agency Directors

FROM: Director
Survey and Certification Group

SUBJECT: Enforcement of the Requirement to Provide Medicare Beneficiaries Notice of Their Rights, Including Discharge Appeal Rights.

Memorandum Summary

- The final rule governing beneficiary notification of their discharge appeal rights, published on November 27, 2006, requires updated enforcement guidance, effective July 2, 2007.
- For hospitals, enforcement of the new notice requirements falls under the Patients' Rights Condition of Participation (CoP) at 42 CFR 482.13.
- For critical access hospitals (CAHs), enforcement of the new notice requirements falls under the Compliance with Federal, State, and local laws and regulations CoP at 42 CFR 485.608(a).

The final rule governing notification to Medicare beneficiaries of their hospital and CAH discharge appeal rights, was published on November 27, 2006 (See Federal Register, 71 FR 68708). Under the final rule, 42 CFR 405.1205(b) requires that hospitals and CAHs provide each Medicare beneficiary who is an inpatient a standardized notice, the Important Message from Medicare (IM), within two days of their admission. The template for the IM is enclosed with this letter. The rule also requires that the IM be signed and dated by the patient when it is delivered to the beneficiary at or near admission. In addition, the rule at 42 CFR 405.1205(b)(3) requires that hospitals and CAHs present a copy of the IM to beneficiaries as far as possible in advance of their discharge, but not more than two calendar days before discharge. In the case of a short inpatient stay, however, where delivery of the IM is within two calendar days of the date of discharge, the second delivery of the IM is not required.

In addition, 42 CFR 489.27(b) requires hospitals and CAHs to demonstrate compliance with this requirement, cross-referencing the requirements at 42 CFR 405.1205.

Enforcement of the discharge notice requirement is linked to the Patients' Rights CoP for hospitals and the Compliance with Federal, State, and local laws and regulations CoP for CAHs.

The Patient's Rights CoP for hospitals at 42 CFR 482.13(a)(1) requires hospitals to inform each Medicare beneficiary of their rights as a patient prior to providing or discontinuing hospital care. The CoP at 42 CFR 485.608 requires that the CAH and its staff be in compliance with applicable Federal, State, and local laws and regulations.

Beginning July 2, 2007, the compliance of hospitals and CAHs with the new, more specific, discharge notice requirements of 42 CFR 489.27 and 42 CFR 405.1205 is to be assessed when surveying hospitals for compliance with the Patients Rights CoP and CAHs for the Compliance with Federal, State, and local laws and regulations CoP. The interpretive guidelines in the State Operations Manual (SOM) for the Patients' Rights CoP for hospitals and the Compliance with Federal, State, and local laws and regulations CoP for CAHs are being amended to reflect the regulatory requirements governing notification of Medicare beneficiaries, who are inpatients, of their discharge appeal rights.

Surveyors must verify that the hospital/CAH has appropriate policies and procedures in place to ensure that Medicare beneficiaries receive timely notice of their inpatient rights at admission, and if applicable, upon discharge. In addition, surveyors must review selected Medicare patient records to confirm that the records contain documentation verifying timely delivery of the IM, including, where applicable, delivery of a follow-up copy of the IM. Surveyors may also interview hospital/CAH staff to assess their knowledge and understanding of the IM delivery requirements, including the hospital's/CAH's process for delivering the IM and obtaining signature from the patient. Surveyors may also interview patients to verify that the hospital/CAH is providing Medicare beneficiaries with the IM in compliance with the regulatory requirements.

For questions regarding enforcement of the requirements for hospitals under the Patients' Rights CoP, please contact David Eddinger at 410-786-3429 or David.Eddinger@cms.hhs.gov. For questions regarding enforcement of the requirements for CAHS under the Compliance with Federal, State, and local laws and regulations CoP, please contact Cindy Melanson at 410-786-0310 or Cindy.Melanson@cms.hhs.gov. Should you have any other questions regarding the content of this letter, please contact Aviva Walker-Sicard at 410-786-8648 or Aviva.walker-sicard@cms.hhs.gov.

Effective Date: July 2, 2007. Please ensure that all appropriate staff are fully informed within 30 days of the date of this memorandum.

Training: The information contained in this letter should be shared with all survey and certification staff, their managers, and the State/RO training coordinators.

/s/
Thomas E. Hamilton

Enclosures

cc: Survey and Certification Regional Office Management

IMPORTANT MESSAGE FROM MEDICARE

YOUR RIGHTS AS A HOSPITAL PATIENT

- You have the right to receive necessary hospital services covered by Medicare, or covered by your Medicare Health Plan ("your Plan") if you are a Plan enrollee.
 - You have the right to know about any decisions that the hospital, your doctor, your Plan, or anyone else makes about your hospital stay and who will pay for it.
 - Your doctor, your Plan, or the hospital should arrange for services you will need after you leave the hospital. Medicare or your Plan may cover some care in your home (home health care) and other kinds of care, if ordered by your doctor or by your Plan. You have a right to know about these services, who will pay for them, and where you can get them. If you have any questions, talk to your doctor or Plan, or talk to other hospital personnel.
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YOUR HOSPITAL DISCHARGE & MEDICARE APPEAL RIGHTS

Date of Discharge: When your doctor or Plan determines that you can be discharged from the hospital, you will be advised of your planned date of discharge. You may appeal if you think that you are being asked to leave the hospital too soon. If you stay in the hospital after your planned date of discharge, it is likely that your charges for additional days in the hospital will not be covered by Medicare or your Plan.

Your Right to an Immediate Appeal without Financial Risk: When you are advised of your planned date of discharge, if you think you are being asked to leave the hospital too soon, you have the right to appeal to your Quality Improvement Organization (also known as a QIO). The QIO is authorized by Medicare to provide a second opinion about your readiness to leave. You may call Medicare toll-free, 24 hours a day, at 1-800-MEDICARE (1-800-633-4227), or TTY/TTD: 1-877-486-2048, for more information on asking your QIO for a second opinion. If you appeal to the QIO by noon of the day after you receive a noncoverage notice, you are not responsible for paying for the days you stay in the hospital during the QIO review, even if the QIO disagrees with you. The QIO will decide within one day after it receives the necessary information.

Other Appeal Rights: If you miss the deadline for filing an immediate appeal, you may still request a review by the QIO (or by your Plan, if you are a Plan enrollee) before you leave the hospital. However, you will have to pay for the costs of your additional days in the hospital if the QIO (or your Plan) denies your appeal. You may file for this review at the address or telephone number of the QIO (or of your Plan).

MENSAJE IMPORTANTE DE MEDICARE

SUS DERECHOS COMO PACIENTE EN UN HOSPITAL

- Usted tiene derecho a recibir los servicios de hospital necesarios cubiertos por Medicare o por su Plan de Seguro de Medicare (“su Plan”), si está inscrito en un Plan.
- Usted tiene derecho a estar al tanto de cualquier decisión que el hospital, su médico, su Plan, o cualquier otra persona tome sobre su estadía en el hospital y quién pagará por la misma.
- Su médico, su Plan, o el hospital debería hacer los arreglos de los servicios que necesitará después de salir del hospital. Medicare o su Plan podría cubrir algunos de los cuidados en el hogar (cuidado de salud en el hogar) y otros tipos de cuidado si lo ordena su médico o su Plan. Usted tiene derecho a saber sobre estos servicios, quién va a pagar por ellos y dónde puede recibirlos. Si tiene alguna pregunta, hable con su médico o su Plan, o hable con otro personal del hospital.

INFORMACIÓN SOBRE SU SALIDA DEL HOSPITAL Y DERECHOS DE APELACIÓN

Fecha de Alta: Cuando su médico o Plan determine que puede ser dado de alta del hospital, le informarán la fecha planificada para su alta. Usted podría apelar si considera que le están pidiendo que salga del hospital antes de tiempo. Si permanece en el hospital después de la fecha para la cual está programada su alta, es probable que Medicare o su Plan no cubran los días adicionales que permanezca en el hospital.

Su Derecho a una Apelación Inmediata sin Riesgos Financieros: Cuando le informen la fecha para la cual está planificada su alta del hospital, si usted considera que le están dando de alta del hospital antes de tiempo, tiene derecho a apelar a su *Organización Para el Mejoramiento de la Calidad* (conocida como QIO, por sus siglas en inglés). La QIO cuenta con la autorización de Medicare para proveerle una segunda opinión sobre si usted está preparado o no para salir del hospital. Puede llamar gratis, 24 horas al día al 1-800-MEDICARE (1-800-633-4227) o TTY/TTD: 1-877-486-2048 para obtener más información sobre como pedir una segunda opinión a la QIO. Si usted apela a la QIO antes del mediodía del día después de que reciba el aviso de no cobertura, usted no será responsable por los costos por los días que se quedó en el hospital mientras la QIO hace la revisión, aún si la QIO no está de acuerdo con usted. La QIO tomará una decisión en un día, después de que reciba la información necesaria.

Otros Derechos de Apelación: Si usted no cumple con la fecha límite para solicitar una apelación inmediata, aún podría solicitar una revisión de la QIO (o por su Plan, si está inscrito en un Plan) antes de salir del hospital. Sin embargo, tendrá que pagar el costo por los días adicionales en el hospital, si la QIO (o su Plan) deniega su apelación. Podría solicitar esta revisión a la dirección o número de teléfono de la QIO o su Plan.

Patient Name:
Patient ID Number:
Physician:

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
OMB Approval No. 0938-0692

AN IMPORTANT MESSAGE FROM MEDICARE ABOUT YOUR RIGHTS

AS A HOSPITAL INPATIENT, YOU HAVE THE RIGHT TO:

- Receive Medicare covered services. This includes medically necessary hospital services and services you may need after you are discharged, if ordered by your doctor. You have a right to know about these services, who will pay for them, and where you can get them.
 - Be involved in any decisions about your hospital stay, and know who will pay for it.
 - Report any concerns you have about the quality of care you receive to the Quality Improvement Organization (QIO) listed here _____ {Insert Name and Telephone Number of the QIO} _____.
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YOUR MEDICARE DISCHARGE RIGHTS

Planning For Your Discharge: During your hospital stay, the hospital staff will be working with you to prepare for your safe discharge and arrange for services you may need after you leave the hospital. When you no longer need inpatient hospital care, your doctor or the hospital staff will inform you of your planned discharge date.

If you think you are being discharged too soon:

- You can talk to the hospital staff, your doctor and your managed care plan (if you belong to one) about your concerns.
- You also have the right to an appeal, that is, a review of your case by a Quality Improvement Organization (QIO). The QIO is an outside reviewer hired by Medicare to look at your case to decide whether you are ready to leave the hospital.
 - **If you want to appeal, you must contact the QIO no later than your planned discharge date and before you leave the hospital.**
 - If you do this, you will not have to pay for the services you receive during the appeal (except for charges like copays and deductibles).
- If you do not appeal, but decide to stay in the hospital past your planned discharge date, you may have to pay for any services you receive after that date.
- **Step by step instructions for calling the QIO and filing an appeal are on page 2.**

To speak with someone at the hospital about this notice, call _____.

Please sign and date here to show you received this notice and understand your rights.

Signature of Patient or Representative

Date

STEPS TO APPEAL YOUR DISCHARGE

- **STEP 1:** You must contact the QIO no later than your planned discharge date and before you leave the hospital. If you do this, you will not have to pay for the services you receive during the appeal (except for charges like copays and deductibles).
 - Here is the contact information for the QIO:
 {insert name of QIO in bold}
 {insert telephone number of QIO}
 - You can file a request for an appeal any day of the week. **Once you speak to someone or leave a message, your appeal has begun.**
 - Ask the hospital if you need help contacting the QIO.
 - The name of this hospital is {insert the name of the hospital and the provider ID number} .
- **STEP 2:** You will receive a detailed notice from the hospital or your Medicare Advantage or other Medicare managed care plan (if you belong to one) that explains the reasons they think you are ready to be discharged.
- **STEP 3:** The QIO will ask for your opinion. You or your representative need to be available to speak with the QIO, if requested. You or your representative may give the QIO a written statement, but you are not required to do so.
- **STEP 4:** The QIO will review your medical records and other important information about your case.
- **STEP 5:** The QIO will notify you of its decision within 1 day after it receives all necessary information.
 - If the QIO finds that you are not ready to be discharged, Medicare will continue to cover your hospital services.
 - If the QIO finds you are ready to be discharged, Medicare will continue to cover your services until noon of the day after the QIO notifies you of its decision.

IF YOU MISS THE DEADLINE TO APPEAL, YOU HAVE OTHER APPEAL RIGHTS:

- You can still ask the QIO or your plan (if you belong to one) for a review of your case:
 - If you have Original Medicare: Call the QIO listed above.
 - If you belong to a Medicare Advantage Plan or other Medicare managed care plan: Call your plan.
- If you stay in the hospital, the hospital may charge you for any services you receive after your planned discharge date.

For more information, call 1-800-MEDICARE (1-800-633-4227), or TTY: 1-877-486-2048.

Additional Information:

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-0692. The time required to complete this information collection is estimated to average 15 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850.

Notice Instructions
The Important Message from Medicare (OMB #0938-0692) (CMS-R-193)

Completing the Notice

PAGE 1 of the Important Message from Medicare

A. Header

Hospitals must display “DEPARTMENT OF HEALTH & HUMAN SERVICES, Centers for Medicare & Medicaid Services” and the OMB number.

The following blanks must be completed by the hospital. Information inserted by hospitals in the blank spaces on the IM may be typed or legibly hand-written in 12-point font or the equivalent. Hospitals may also use a patient label that includes the following information:

Patient Name: Fill in the patient’s full name.

Patient ID number: Fill in an ID number that identifies this patient. This number should not be, nor should it contain, the social security number.

Physician: Fill in the name of the patient’s physician.

B. Body of the Notice

Bullet # 3 Report any concerns you have about the quality of care you receive to the Quality Improvement Organization (QIO) listed here _____.

Hospitals may preprint or otherwise insert the name and telephone number (including TTY) of the QIO.

To speak with someone at the hospital about this notice call: Fill in a telephone number at the hospital for the patient or representative to call with questions about the notice. Preferably, a contact name should also be included.

Patient or Representative Signature: Have the patient or representative sign the notice to indicate that he or she has received it and understands its contents.

Date: Have the patient or representative place the date he or she signed the notice.

PAGE 2 of the Important Message from Medicare

First sub-bullet - Insert name and telephone number of QIO in BOLD: Insert name and telephone number (including TTY), in bold, of the Quality Improvement Organization that performs reviews for the hospital.

Second sub-bullet – The name of this hospital is: Insert/preprint the name of the hospital, including the Medicare provider ID number (not the telephone number).

Additional Information: Hospitals may use this section for additional documentation, including, for example, obtaining beneficiary initials to document delivery of the follow-up copy of the IM, or documentation of refusals.

Nombre del paciente:
Número de identificación del paciente:
Médico:

DEPARTAMENTO DE SALUD Y SERVICIOS HUMANOS
Centros de Servicios de Medicare y Medicaid
Nº de aprobación OMB 0938-0692

MENSAJE IMPORTANTE DE MEDICARE SOBRE SUS DERECHOS

COMO PACIENTE INTERNO, USTED TIENE EL DERECHO A:

- Recibir servicios cubiertos por Medicare. Esto incluye servicios de hospital necesarios desde el punto de vista médico y servicios que podría necesitar después de la salida (dado de alta), si son ordenados por el médico. Tiene el derecho a estar informado sobre estos servicios, quién pagará y dónde obtenerlos.
- Participar en toda decisión sobre la estadía en el hospital y saber quién la pagará.
- Notificar toda preocupación que tenga sobre la calidad de la atención recibida a la Organización para el Mejoramiento de la Calidad (QIO) mencionada aquí _____ {Escribir el nombre y el número de teléfono del QIO} _____.

SUS DERECHOS DE MEDICARE PARA SALIR DEL HOSPITAL

Planificación para su salida (dado de alta): Durante la estadía en el hospital, el personal cooperará con usted para prepararlo para que su salida no presente riesgos y organizar los servicios que usted podría necesitar después de salir del hospital. Cuando ya no necesite recibir la atención de hospital como paciente interno, el médico o el personal del hospital le informarán la fecha de su salida.

Si piensa que su salida es muy apresurada:

- Puede hablar con el personal del hospital, su médico y la administración de su plan de cuidado de la salud (si pertenece a uno de ellos) sobre sus preocupaciones.
- También tiene el derecho de apelar, es decir, pedir una revisión de su caso por una Organización para el Mejoramiento de la Calidad (QIO, por sus siglas en inglés). El QIO es un organización externa contratada por Medicare para revisar el caso a fin de decidir si usted está listo para salir del hospital.
 - **Si desea apelar, debe comunicarse con el QIO antes de la fecha de su salida (dado de alta) planificada y antes de salir del hospital.**
 - En tal caso, no tendrá que pagar los servicios que reciba durante el proceso de apelación (con excepción de los cargos como copagos y deducibles).
- Si no apela la decisión, pero decide permanecer en el hospital más allá de la fecha de salida (dado de alta) planificada, tal vez tenga que pagar el costo de los servicios que reciba después de esa fecha.
- **La página 2 incluye instrucciones paso por paso para comunicarse con el QIO y presentar una apelación.**

Si desea hablar con alguien en el hospital sobre este aviso, llame al _____.

Favor de firmar y escribir la fecha para mostrar que recibió este aviso y que entiende sus derechos.

Firma del paciente o representante

Fecha

PASOS PARA APELAR UNA SALIDA

- **PASO 1:** Debe comunicarse con el QIO antes de la fecha de su salida (dado de alta) planificada y antes de salir del hospital. En tal caso, no tendrá que pagar los servicios que reciba durante la apelación (con excepción de los cargos como copagos y deducibles).
 - Esta es la información para comunicarse con el QIO:
_____ {escriba el nombre de el QIO}
_____ {escriba el número de teléfono del QIO}
 - Puede presentar una solicitud de apelación cualquier día de la semana. **Una vez que hable con alguien o deje un mensaje, ha comenzado la apelación.**
 - Puede pedir ayuda al hospital para comunicarse con el QIO si fuera necesario.
 - El nombre de este hospital es _____ {escriba el nombre del hospital y el número de identificación del proveedor} _____.
- **PASO 2:** Recibirá un aviso detallado del hospital o del plan Medicare Advantage u otro plan de cuidado de salud administrado de Medicare (si pertenece a uno de ellos) que explica las razones por las que consideran que usted está listo para ser dado de alta.
- **PASO 3:** El QIO le solicitará su opinión. Usted o su representante necesitan estar disponibles para hablar con el QIO, si se solicita. Usted o su representante pueden presentar al QIO una declaración escrita, pero no se le exige que así lo haga.
- **PASO 4:** El QIO revisará su historial médico y otra información importante sobre su caso.
- **PASO 5:** El QIO le notificará sobre su decisión en el lapso de 1 día después de recibir toda la información necesaria.
 - Si el QIO determina que usted no está listo para ser dado de alta, Medicare continuará cubriendo el costo de los servicios de hospital.
 - Si el QIO determina que usted está listo para ser dado de alta, Medicare continuará pagando sus servicios hasta el mediodía del día **después** que el QIO le notifique a usted su decisión.

SI NO CUMPLE CON LA FECHA LÍMITE PARA LA APELACIÓN, USTED TIENE OTROS DERECHOS DE APELACIÓN:

- Todavía puede solicitar al QIO o a su plan (si pertenece a uno de ellos) que revisen su caso:
 - Si tiene Medicare Original: Llame al QIO mencionado arriba.
 - Si pertenece al plan Medicare Advantage o a otro plan de cuidado de salud administrado de Medicare: Llame a su plan.
- Si usted se queda en el hospital, el hospital puede cobrarle el costo de los servicios que reciba después de la fecha de su salida (dado de alta) planificada.

Si desea más información, llame GRATIS al 1-800-MEDICARE (1-800-633-4227) o TTY: 1-877-486-2048.

Información adicional:
