

The Medicare Beneficiary Complaint Process:

QIOs and Possible Alternatives

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QIO Beneficiary Complaint Process

Structural Details and Issues

7th and 8th QIO SOW contracts

Beneficiary complaint resolution:

- included in “Medicare Beneficiary Protection Activities” and
- allocated \$45.5 million dollars for the 7th SOW (5.8% of the core contract allocation).

Complaint Process Generally

Acknowledge Receipt
of Complaint

Request Medical
Records

Receive Medical
Records

Complete Quality Review

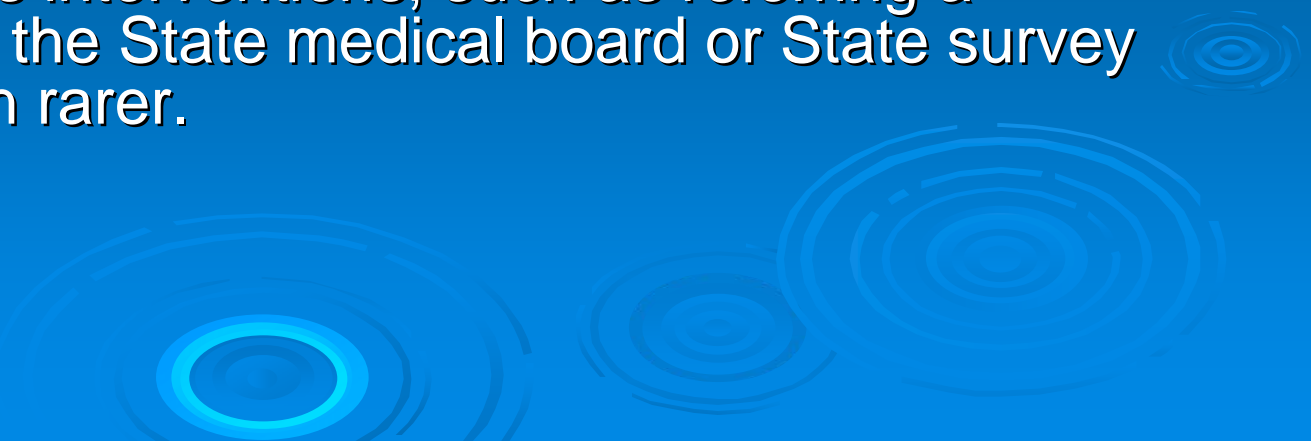
- ◆ Determine whether the quality of services met professionally recognized standards of health care.
- ◆ If not, send written determination to involved providers/practitioners.
- ◆ If potential quality concern is identified, afford notice to provider/practitioner to discuss potential concern. Complete review and send written determination to involved provider/practitioner.
- ◆ If potential quality concern is confirmed, give provider/practitioner opportunity for a re-review.

Allow provider/practitioner
to consent to or prohibit
the disclosure of information
that explicitly or implicitly
identifies that provider or
practitioner

Respond to Complainant

Take Corrective Action

Issues Relating to QIO Complaint Process Corrective Action

- Not considered integral part of complaint process
 - The 2001 OIG Report found that
 - QIOs rarely take any action beyond a notification letter to providers and practitioners in response to confirmed quality concerns based on complaints.
 - No examples of a QIO calling for remedial training, coursework, or special programs.
 - More serious interventions, such as referring a physician to the State medical board or State survey agency even rarer.
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Corrective Action

- QIOs can initiate sanction procedures with the OIG when they “identify failure by a practitioner in a substantial number of cases to comply with his/her obligations and/or gross and flagrant violation” of duty. QIOS seldom make such referrals.

Sharing with Other Agencies

- No formal relationship exists with State survey agencies and State medical boards.
- QIO Manual suggests QIOs “participate in the overall beneficiary complaint network with other entities” and “advise these groups of [the QIO’s] role and responsibility in investigating beneficiary complaints, and solicit information regarding their role and responsibility.”
- State survey agencies we spoke reported no coordination.

Confidentiality

- Confidentiality restrictions make it difficult for QIOs to respond adequately to complainants.
- Two conflicting legislative mandates
 - Federal law prohibits QIOs from disclosing identifying information about practitioners without permission.
 - Federal law also requires QIOs to “inform beneficiaries of the final disposition of a complaint.”
- Public Citizen Case – 2001.
 - Case weighed conflicting mandates. Judge held that “at a minimum, the term ‘final disposition’ requires QIOs to notify the complainants as to whether the quality of the services that the recipient received met professionally recognized standards of health care.”

Confidentiality

- Letters now reveal more information but are still prohibited from naming practitioner.
- CMS has attempted to resolve issue without success. Could not publish final rule.
- Legislation or new regulations? Unclear.
- IOM stated that confidentiality rules don't make sense in current climate of transparency and responsiveness.

Number of complaints handled by QIOs

- Data hard to find/decipher.
- Greatest number of complaints received by a QIO in a fiscal year – 306 in 2005 in California (.71 complaints per 10,000 Part A Medicare beneficiaries)
- Eight QIOs reported fewer than ten complaints in their most recently posted annual reports.
- State survey director – “We receive 100 complaints in less than a day.”

Obstacles to QIO Effectiveness

➤ Confidentiality

➤ Conflict of interest

- QIOs oriented to medical community
- Beneficiaries not primary clients
- Technical assistance and regulatory functions are incompatible
- QIO mission is to attract providers in QI programs.
- CMS evaluation of QIOs based on provider satisfaction.

Alternatives to Perform the beneficiary complaint review function

➤ OIG, 2001

- State Survey and certification agencies
- State medical licensure boards
- State Health Insurance Partnership Programs

Alternatives to perform the beneficiary complaint review function

- *“CMS should consolidate the review functions into a few regional or national competitive contracts or determine the most appropriate agencies with which to contract for the purpose in each state. . . Among the entities considered should be state health departments and the state survey and certification agencies, which already contract with CMS to conduct certain functions for the Medicare program, including the review of all quality-related complaints for nursing homes.” (IOM, 2006)*

Characteristics of Ideal Complaint Process


- Characteristics identified by OIG
 - Accessibility
 - Investigative capacity
 - Interventions and follow-through
 - Quality improvement orientation
 - Responsiveness
 - Timeliness
 - Objectivity
 - Public accountability

Characteristics of Ideal Complaint Process

➤ Other Characteristics

- Scope of authority
- Adequate resources
- Due process
- Consistency across jurisdictions
- Coordination with other entities
- Range of response/remedies

Alternatives to QIOs: State Survey Agencies

- All 50 States and DC have offices responsible for surveying and licensing health care institutions
 - The surveying function is carried out under contract with DHHS to ensure that Medicare and Medicaid providers meet Conditions of Participation
 - Receive and investigate complaints.
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History of responsiveness of SAs to Complaints

- Most information relates to consumer complaints regarding nursing home care (GAO & OIG reports)
- Critical 1999 GAO Report found state complaint investigation not adequate
- In response, HCFA made important changes to the process and initiated a Complaint Improvement Project.
- In 2000, CMS established the State Performance Standard Reviews.
- 2003 GAO report - CMS oversight of SA activities had improved.

Current Characteristics of the Survey Agency Complaint Process

- 2004 CMS implements ACTS (Aspen Complaints Incident Tracking System)
- March 2006 CMS formalizes guidance to States for their complaint investigation.
- Process
 - Intake information
 - Information provided to complainant at time of complaint
 - Information input in to ACTS
 - Timeframes
 - Respond to Complainants

Evaluation of State Agency Complaint System

➤ **July 2006 OIG report**

- Some SAs not meeting timeframes
- State agencies not taking full advantage of ACTS
- Follow-up letters to complainants lack meaningful information
- CMS oversight of nursing home complaint investigation is limited.

- ## ➤ **Conclusion** – State agencies vary but many doing a competent job handling complaints.

Comparison of State Survey Agency and QIOs

- **Accessibility** – SAs generally more accessible than QIOs
- **Investigative Capacity** – SAs investigate at site of care; utilize trained health professionals (usually RNs); QIOs have medical experts but review often based on medical record.
- **Interventions and follow-through** – SAs have greater ability than QIOs to intervene and require corrective action.
- **Quality Improvement Orientation** – SAs receive a sufficient number of complaints to identify patterns although they vary on extent to which they use data.
- **Responsiveness** – SAs do not have the same confidentiality restrictions as QIOs. CMS has provided response guidelines to SAs.

Comparison of State Survey Agency and QIOs

- **Timeliness** – No centralized data. SAs likely to improve on this measure given CMS monitoring. QIOs are required to respond to complaints in 165 days.
- **Objectivity** – SAs more objective. Function of SAs to protect patients from harm. QIOs basic function is to improve practice patterns at health care facilities.
- **Public Accountability** – As State agencies with State/Federal role, SAs are subject to State and Federal oversight although complaint information not widely available.
- **Scope of Authority** – Both greater and narrower than QIOs. SAs can respond to any patient regarding care at state health care facility but cannot respond to complaints about individual practitioners as the QIOs can.

Comparison of State Survey Agency and QIOs

- **Consistency Across Jurisdictions** – Possible inconsistency across jurisdictions although this might improve as CMS works to improve responsiveness to complaints across all States.
- **Due Process** – SAs provide due process protections to providers when levying fines, or revoking a license.
- **Adequate Resources** – A consistent concern across SAs is lack of adequate funds to respond to complaints.
- **Coordination with other Entities** – SAs routinely refer cases to other state entities; little coordination with QIOs
- **Range of Remedies** – Varies State to State but most can require a corrective action plan, civil money penalties and revocation of license.

Comparison of State Survey Agency and QIOs

SAs>QIOs	QIOs>SAs	QIOs=/?SAs
Access	Scope of Authority	QI Orientation
Investigative Capacity	Consistency across Jurisdictions	Responsiveness to Complaints
Intervention & Follow thru	Adequate resources	Timeliness of response
Objectivity		Due Process
Public Accountability		
Coordination across Entities		
Remedies		

State Medical Boards

- Every state has a medical board
- Boards receive/investigate complaints about individual practitioners.
- Boards vary significantly from State to State
- Boards are creatures of State law – no federal oversight/regulation

Comparison of Boards to QIOs

Boards > QIOs	QIOs > Boards	QIOs =/? Boards
Access	Scope of Authority	Responsiveness to Complaints
Investigative Capacity	Consistency across Jurisdictions	Timeliness of Response
Intervention & Follow thru	Adequate resources	Objectivity
Public Accountability	QI Orientation	Due Process
Range of Remedies		Coordination Across Entities

Alternative Complaint Structure

- **SAs and Boards would be designated as the official place for a Medicare beneficiary to lodge a complaint about quality of care.**
- **SAs and Boards would investigate all formal complaints, make determinations, and implement remedies.**
- **These agencies would provide individualized responses to complainants via letter, including the agencies' findings and any action taken.**
- **Additional funds to State agencies.**
- **Individual designated within the relevant department (health, consumer, etc.) to coordinate and oversee process.**

Alternative to QIOs

- **State agencies and Boards would forward all complaints received to the State QIO.**
- **Other agencies receiving complaints would also be required to submit complaints to the QIO.**
- **The QIOs would respond to requests from SAs and the Boards for technical assistance.**
- **QIOs would also share complaint information with the relevant CMS regional office to coordinate information across regions.**
- **QIOS would post uniform data about complaints received on their websites. This could take the form of an annual quality report.**
- **Regional offices would submit all information to a national database.**

Comparison of New Structure to QIOs


New Structure > QIOs	QIOS > New Structure	QIOs =/? New Structure
Accessibility	Consistency Across Jurisdictions	Scope of Authority
Investigative Capacity		Responsiveness
Intervention & Follow thru		Timeliness
Objectivity		Adequate Resources
Public Accountability		
QI Orientation		
Due Process		
Coordination with Other Entities		
Remedies		

Issues and Obstacles to Consider

➤ Willingness of SAs and Boards to Take on this Task

- Directors of SAs to whom we spoke seemed willing to take on this task if accompanied by additional resources.
- Willingness of Boards less clear and ability to mandate cooperation unlikely.
- CMS would likely need to contract with Boards to perform this function.
- Through contract could require certain procedures.

Alternative Entities

- State Consumer Protection Offices
 - JCAHO
 - State Ombudsmen Programs
 - QICs
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Conclusion

- As voiced in IOM report, need for “new home” for beneficiary complaint response function has emerged over time.
- Our alternative takes advantage of the existing experience and expertise of SAs and Boards in responding to patient/consumer complaints about individual health care providers and institutional providers.
- Neither the QIO nor the alternatives that we have put forth are an “ideal” process. Each has strengths and weaknesses