

Elements and Considerations for Developing a Medicare Beneficiary Complaint Process to Address Quality of Care Concerns: The Medical Perspective

Peter A. Hollmann, M.D.
Blue Cross Blue Shield of Rhode Island

Center for Medicare Advocacy, Inc.
www.medicareadvocacy.org

BEYOND QIO:
MODELING A MEDICARE BENEFICIARY
COMPLAINT PROCESS FOR QUALITY OF CARE

January 19, 2007

Objectives

- Define Purpose of the Process
- Define Components of a Quality System
- What Entities are Post QIO candidates
- Role of Alternative Dispute Resolution

Stimulate informed discussion

Conclusions

- Set realistic expectations
- No current entity has all desired attributes or track record of success
- Alternate Dispute Resolution has the potential to align quality improvement and complaint resolution goals
- Fragmentation creates waste and reduces efficacy

Assumptions

- Beneficiary Complaint will not be done by the QIO
- Changing the review agent may require legislative or regulatory change and create an opportunity to revise the process and mission
- CMS retains oversight, set standards and measures performance
- The American tort system will not be significantly changed.

Disclosure and Bias

- Physician in practice and Medicare Advantage Plan medical director
- Most complaints are not substantiated poor quality
- Complaints are poor indicators of quality
- More patients can be helped by performance improvement than by sanctioning providers
- We can all do better and there are problem providers

Self Test

Complete the following sentence:

Where there is smoke, there ...

- a) is fire
- b) are mirrors
- c) is smoke and we need to take a closer look

Why Complain

- Get answers
- Resolve ongoing issue e.g., obtain services
- Vent
- Gain apology/acknowledgement
- Seek compensation
- Prevent it from occurring again
- Seek a powerful ally in change
- Get back at a provider

Why Complain

■ The Quality of Health Care Delivered to Adults in the United States

Elizabeth A. McGlynn, Ph.D., Steven M. Asch, M.D., M.P.H., John Adams, Ph.D., Joan Keeseey, B.A., Jennifer Hicks, M.P.H., Ph.D., Alison DeCristofaro, M.P.H., and Eve A. Kerr, M.D., M.P.H. NEJM: Volume 348:2635-2645 June 26, 2003

- 54.9% of care was according to standards

■ To Err is Human: Building A Safer Health System

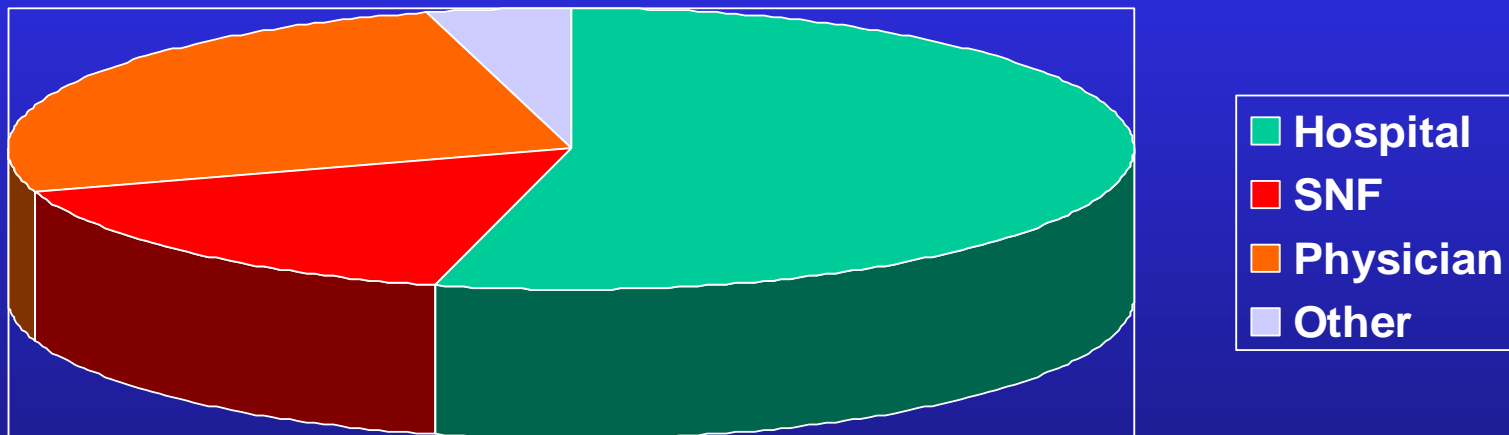
Institute of Medicine November 1999

- 98,000 deaths from medical errors

Seen these other elephants?

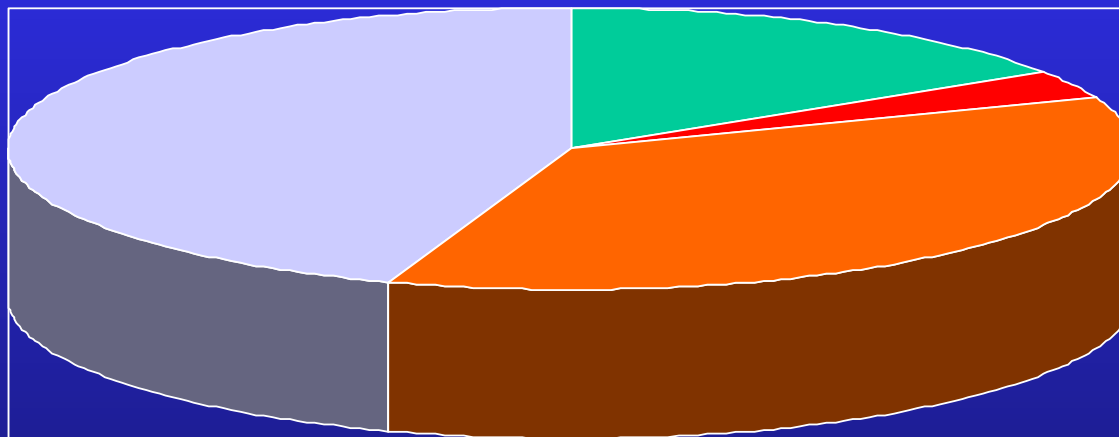
- Remove bad apples or shift the quality curve
- Implicit standards
- Confidentiality
- Compensation
- Public information (accountability and transparency)
- Limited resources

QIO Complaints



Source:
Lumetra 1344
IPRO 554

BCBSRI



Total 757: excludes
342 pharmacy and
387 MH/SA

Attributes of a Quality System

- Accessibility
 - Complainants are aware of the system and find it easy to use
- Investigative capacity
 - Appropriate experts, resources, and methods are available to assess complaints and determine if they are part of an underlying pattern
- Interventions and follow-through
 - Substantiated complaints result in appropriate corrective action. Monitoring assures compliance.

Attributes of a Quality System

- Quality improvement orientation
 - Complaints guide quality improvement efforts
- Responsiveness
 - Responses to complaints are regular, substantive, and clear
- Timeliness
 - Each step is completed within an established, reasonable time frame, and mechanisms exist to deal with emergent complaints in an expedited manner

Attributes of a Quality System

- Objectivity
 - The review process is unbiased, balancing the rights of each party
- Public accountability
 - Complaint information is made available to the public

*DHHS OIG The Medicare Beneficiary Complaint Process:
A Rusty Safety Valve, August 2001*

Attributes of Quality Healthcare Applied to Complaint Review

- Safe
 - Patient urgent needs addressed, no provider unjustly harmed
- Timely
 - Complainant feels sense of action
- Effective
 - Complainant satisfied, measurable quality improved, poor provider remediated or removed, improved communication
- Efficient
 - Affordable
- Equitable
 - Fair, non-biased, due process
- Patient-centered
 - Beneficiary satisfied, transparent

Attributes of a Quality System

- Safe
- Timely
- Effective
- Efficient
- Equitable
- Patient-centered
- Timely, objective
- Timely
- Investigative capacity, responsiveness, QI orientation
- (No parallel)
- Objective
- Responsive, *public accountability*

Access

- Psychological barriers
 - Fear of reprisal, sense of futility, desire to protect provider
- Resources to publicize/natural awareness
 - Lack of awareness of QIO
- Ease of reporting
- Moment of opportunity
 - Notices (NODMAR, NONC), site of care

Access

- Provider attitude
 - Welcome feedback, positive relationships
- Potential for Provider Self-reporting
 - Assessments and corrections supplied, relative of ease when provider is positive
- All potential entry points ultimately go into one database, possibly one review agent
- Licensure boards, survey agencies, Medicare Advantage plans, providers

Investigative Capacity

- Expertise
 - Medical/technical experts of multiple disciplines without conflict, with review expertise
 - Expertise in investigation and resolution
- Resources
- Local presence
- Triage skills
 - Recognizing emergencies, potential patterns and need for broadened review
 - Ability to clarify, set expectations and resolve

Investigative Capacity

- Simultaneous investigation and resolution
 - Some quick fixes
 - Engage the provider
 - Early contacts are responsive
- Teaching basic investigative skills to provider
- Proportional to sanction potential
- Inter-agency referral (e.g., DEA, US attorney)
 - knowing when

Timeliness

- Obvious metrics and standards
- Key factors
 - Priority function
 - Adequate resources
 - Authority to obtain information timely
 - Role of complexity of issue (need to look for patterns, potential for sanction)
- Major point of satisfaction
- Provision/capacity for emergent activity

Interventions and Follow-through

- Requiring and monitoring corrective action
 - Enforcement capacity
- Teaching and implementing provider specific QI
 - Basic skills, monitoring reports
- Referral to other agencies, including sanction and education in performance improvement
 - Consultative role for QIO

Interventions and Follow-through

It cannot be body counts.

Quality Improvement

- Standards of Care
- Gap in Care – baseline measure
- Analysis
- Implement improvement
- Re-measure
- Systems focus
- Culture of openness
- 100,000 lives saved more than errors killed

Complaints

- Anecdotes or random findings
- “Blame” orientation

Quality Improvement Orientation

- Realistic expectations
 - Most are not quality, most quality lapses are isolated events
- Skills improvement
 - Communication, QI, Sentinel events
- Provider corrective action and QI “efforts”
 - Follow-through
- National database
 - Nomenclature, system and expert analysis

QI Orientation

- Patient dissatisfaction is an opportunity to improve
 - Risk management, communication
- Sentinel event analysis is meaningful
- Prevention is the goal of all protective and regulatory agencies
 - The need to balance sanction with improvement goals is unavoidable
- Opportunities to partner with the QIO

Responsiveness

- Meets complainant reasonable needs
 - Identify those needs, set expectations
- Communication regular and clear
- Substantive information provided
- Acknowledgement, apology, compensation
 - The provider and third party roles
- Measure satisfaction with process and outcome

Substantive Information

- Clarifies and re-states complaint
- Acknowledges limitations
- Explains review process
- States findings
- Indicates what steps will occur to prevent future occurrences (as appropriate)

Confidentiality

- Protections are provider specific (institutional, professional)
- A substantive response is required today, i.e. did the care meet standards or not
- Certain details are not specific to complaint and therefore not necessary
- Certain details should be protected (consultant findings)
- Process for non-complaint findings (issue identified on other reviews)

Alternate Dispute Resolution

- Limited experience to date, but positive viewpoint
- ADR for complaints
- ADR for litigation
- Does ADR have the potential to better align multiple goals of an effective system and even allow consideration of more lofty goals?

ADR Potential

- Self reporting
 - With analysis and resolution
 - With data about related processes/outcomes
- Provider involvement
 - More satisfying to patient
 - Better and more timely investigation
 - Provider gets out in front regarding message
 - Provider is not fighting the process
- Timeliness and specificity
 - The background to the complaint is more readily exposed
 - Specific issues better defined
- More responsive
 - Greater potential for immediate resolution
 - Participation and buy in from beneficiary

ADR Potential

- Provider training is preventive
 - Many providers will need training on how to be effective in dispute resolution and root cause analysis
 - Improves communication skills and ability to prevent future complaints
- A culture of openness
 - ADR has less blame, more joint effort to improve care and satisfaction
 - ADR has been associated with regulation/laws that allow protected communication
- Sentinel event analysis and model
 - Uses sentinel event approach and teaches it on the spot

ADR Potential – Health Courts

- More equitable compensation system
 - Potential to tie to health courts
 - Potential links to risk managers, claims persons and offered compensation
 - Less spent on litigation, more on compensation
 - Address devaluation of elderly
- Relationship to sanction system
 - Most health courts NOT linked to sanction, but they are based on self report, not complaint management

ADR Unknowns

- What complaints are inappropriate for ADR
 - Very limited eligibility today, but limits inevitable
- Relationship to sanction
 - Self reported compared to complaint based
- Provider/beneficiary acceptance
- Best method to provide advocacy for beneficiary
- Would specific review agent preclude ADR?
 - Is it inappropriate for a licensure authority?
- Unlikely to decrease total costs of compensation

ADR Summary

- ADR has significant potential and should be part of a revised complaint review methodology
- ADR should be formally studied

Objectivity

- Perceptions count
- The beneficiary needs an advocate
- Defined processes, established with public comment
- Performance metrics, internal QI of process and independent evaluation
- Relationship to sanction implementation
- Present performance good

Objectivity (an editorial comment)

- Implicit standards are the basis of many conclusions regarding quality of care
- Sophisticated consumers and public members appear to have beliefs that conflict with this point
- Environmental factors may lead to greater reliance on explicit standards (e.g., cost containment may lead to greater reliance on evidence based medicine).

Accountability

- The most likely benefit of reporting is when it motivates providers to self measure and improve
 - Therefore, cooperative providers should be involved in report design
- “Pay for Performance” initiatives are stimulating development of reporting methodologies
 - A standardized method should be sought
- The main utility to the public is that it creates trust, even if it fails to inform

Efficiency

- Minimize duplication
 - Waste of resource and hassle to parties
 - Potential for discordant conclusion
 - Cracks or endless loops
- All payer system
 - Higher volume and greater experience
 - Better leverage of infrastructure investments
 - Patterns more easily identified by investigators
- Research best practices in identification of iceberg tips to avoid wild goose chases and mixed metaphors
- Central data repository
- There must be a budget

Practical Points (for later discussion)

- Complaint origin obscured
 - Does it matter why the complaint came to the review agent?
 - Rules may be different (better or worse) for a complaint to a licensure board compared to a complaint well handled by the QIO today
 - Confidentiality, subpoena, ADR potential, sanction, quality improvement
- Segregating reviews and follow-through

Thanks

- Commonwealth Fund for sponsorship
- AARP
- Reviewers of the paper
- Center staff and co-presenters
- All of you

Elements and Considerations for Developing a Medicare Beneficiary Complaint Process to Address Quality of Care Concerns: The Medical Perspective

Peter A. Hollmann, M.D.
Blue Cross Blue Shield of Rhode Island

Center for Medicare Advocacy, Inc.
www.medicareadvocacy.org

BEYOND QIO:
MODELING A MEDICARE BENEFICIARY
COMPLAINT PROCESS FOR QUALITY OF CARE

January 19, 2007