

Responding to Medicare Beneficiary Concerns

QIO Mediation Services

Quality Improvement Organizations (QIOs) offer mediation services to Medicare beneficiaries who file complaints about the quality of care received in hospitals, doctors' offices, clinics, nursing homes, and from home health providers.

Background

QIOs work under contract to the Centers for Medicare and Medicaid Services (CMS) to improve quality of care for Medicare beneficiaries—with a focus on improving systems of care, promoting adoption of state of the art clinical practices, and encouraging greater use of preventive care. QIOs also provide a number of services directly to beneficiaries, including review of complaints.

From 2002 through 2005, QIOs received about 7600 complaints about quality of care nationwide. Complaints frequently involve concerns that the patient received the wrong medication, underwent inappropriate surgery, received the wrong treatment, experienced a medical error, or was discharged too soon or without adequate instructions.

QIO staff respond to beneficiary complaints by assigning physicians to review whether care failed to meet professionally recognized standards. If the QIO reviewer finds that care delivered was flagrantly unacceptable or threatened public health the case is referred to a state medical licensing board or appropriate oversight authority.

Mediation As An Option

In recent years, QIOs have begun using mediation as an additional option for resolving complaints. Mediation may help resolve complaints about cases involving care that met professional standards, but could have been better.

Mediation offers the patient an opportunity to be involved in review of his or her complaint and to learn from physicians. It offers the physician the chance to understand the patient's perspective, which may lead to better communication with patients. Successful mediation usually leads to resolution of a dispute and the avoidance of costly litigation.

A recent pilot test in six states showed that most beneficiaries and providers who participated in mediation were satisfied with both the process and the outcome. In many cases that went through mediation, beneficiaries received acceptable explanations from their physicians and assurances that steps would be taken to address the concerns identified in the complaint.

Studies also have shown that an estimated 80 percent of complaints stem from miscommunication about care or misperceptions, as opposed to poor clinical quality.

For example, cases might typically involve a situation where:

- A beneficiary files a complaint saying she was given the wrong medicine. The medical record shows the medicine was correct, but the instructions given were either not clear or not completely understood. Or, if the patient later learns that the medicine is more commonly used for another indication, the patient believes a mistake has been made.
- The beneficiary's representative files a complaint stating his parent was discharged before he was able to walk. The medical record shows that the patient could walk with assistance, physical therapy in the home was ordered, but no one explained that arrangements had to be made to obtain therapy.
- The beneficiary complains that the care received from an orthopedist for neck pain did not help her. The medical record shows that the physician discussed a variety of available options for care, but the beneficiary did not make a choice and did not return for a follow-up visit.

How Mediation Works

Where communication is at the heart of a complaint, mediation offers an effective way to resolve many disputes. Mediation allows beneficiaries the opportunity to meet face to face with physicians—to express concerns and to hear the physician's perspective in a neutral environment managed by a third party.

Here's how the process works:

- When a complaint is filed, the QIO assigns a medical professional to make an initial determination whether or not care was acceptable or could have been better. If the QIO finds that the provider violated professionally recognized standards of care, the QIO will require a plan of corrective action and/or refer the case to an oversight authority for possible sanctions.
- In other cases, the beneficiary may be offered the option of mediation to resolve the dispute that led to the complaint. Mediation is confidential, non-binding, and is offered to beneficiaries and providers at no cost. Information from mediation sessions cannot be used in any court proceeding.
- If both the provider and the beneficiary accept, the QIO schedules a mediation session involving the beneficiary, the provider, and an impartial, professional mediator who runs the session. An attorney can join any party for the meeting. Also, the beneficiary can receive help from a mediation advisor—a volunteer who supports the beneficiary throughout the mediation process.
- Once both parties have reached an understanding to settle the conflict, the mediator writes up an agreement, which is reviewed with the participants and then signed by both parties. The agreement is only a tool for resolution of the case and not retained as part of a formal record. If an agreement is not reached, the beneficiary can again ask for the case to be investigated by a QIO reviewer.

The American Health Quality Association represents the national network of Quality Improvement Organizations (QIOs) that work to encourage the spread of best clinical practices and improve systems of care delivery. Visit www.abqa.org.