

New Notice Rules Help Medicare Beneficiaries Fight a Hospital Discharge

New notice requirements for Medicare beneficiaries being discharged from the hospital took effect July 1, 2007. The notices give Medicare patients information about their discharge and appeal rights. Previously hospitals were required to give patients a written notice before discharge called "Hospital-Issued Notice of Non-Coverage" (HINN). Hospitals may still give HINNs in certain circumstances, but the new rules require hospitals to give two notices to patients of their rights—one right after admission and one before discharge.

One of the major benefits of Medicare is its coverage of hospitalization. Medicare covers 90 days of hospitalization per illness (plus a 60-day "lifetime reserve"). However, if a patient is admitted to a hospital as a Medicare patient, the hospital may try to discharge the patient before he or she is ready. While the hospital can't force the patient to leave, it can begin charging the patient for services. Therefore, it is important that Medicare patients know that they have rights to appeal. Even if a patient doesn't win an appeal, appealing can buy the patient crucial extra days of Medicare coverage. (We have helped such patients avoid a premature discharge for which the patients and their families were not prepared.)

As attorneys experienced with Medicare matters, we can get involved in fighting an improper discharge at any step along the way. The earlier we are involved, the more likely the client will get a positive result.

Within two days of admission to a hospital, the hospital must give the patient a notice called "An Important Message from Medicare about Your Rights" (IM) explaining the patient's discharge and appeal rights. The patient must read the notice, sign it, and date it. Two days before discharge, the hospital must give the patient another copy of the IM. If the patient is in the hospital for three days or less, the hospital only needs to give him or her one notice.

If the patient receives a discharge decision but is not ready to leave, the patient should immediately contact our office or the local Medicare Quality Improvement Organization (QIO). A QIO is a group of doctors and other professionals who monitor the quality of care delivered to Medicare beneficiaries. They are paid by the federal government and not affiliated with a hospital or HMO. In Mississippi, the QIO is the Information and Quality Healthcare (IQH). The phone number is 601-957-1575.

It is very important to contact the QIO right away. The patient, or we on his or her behalf, must contact the QIO by noon on the first business day after the patient receives the discharge notice. If the patient does this, the patient will not have to pay for care while waiting for the discharge to be reviewed. If the patient does not contact the QIO by noon, the hospital can begin charging the patient on the third day after he or she received the discharge notice.

Once we or the client requests a QIO review, the hospital is required to give the patient a "Detailed Notice of Discharge." The patient should receive the notice no later than noon the day after he or she requested a QIO review. The detailed notice explains the medical reason behind the discharge.

The QIO will conduct a review of the discharge. The QIO doctors will review the medical necessity, appropriateness, and the quality of hospital treatment furnished to the patient. The hospital cannot discharge a patient while the QIO is reviewing the discharge decision, and the patient will not have to pay for the additional days in the hospital. If the patient doesn't agree with the QIO's decision, we or the client can ask it to reconsider. It must issue a decision within three days.

If, after the reconsideration, the QIO still agrees with the hospital's decision, the patient can appeal to an administrative law judge (ALJ). The client will need legal counsel to help him or her through this process. The patient can appeal the ALJ's decision to the Department of Health and Human Services, Departmental Appeals Board (DAB). Finally, if the patient doesn't agree with the DAB decision, he or she can appeal to federal court as long as at least \$1,000 is at stake.

Contact us at 601-987-3000 for help with Medicare discharge problems.