



Medicare Advocacy Project

Protecting your medicare rights.

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RECEIVED

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May 3, 2007

OMB Desk Officer: OMB Human Resources and Housing Branch
 Attention Camlyn Lovett
 New Executive Office Building
 Room 10235
 Washington, DC 20503
 Fax number: 202-395-6974

Re: Important Message from Medicare, CMS-R-193 (OMB#: 093 0692);
 Detailed Notice of Discharge, CMS-10066 (OMB#: 0938-New)
 72 Fed. Reg. 17169 (April 6, 2007)

Dear Madam or Sir:

The Medicare Advocacy Project, Greater Boston Legal Services, works to insure that Massachusetts Medicare beneficiaries receive the Medicare and Medicare-related coverage and services to which they are entitled. Our clients include individual and groups of elders and persons with disabilities, especially those with low incomes. On behalf of our clients, we would like to submit the following comments regarding the Centers for Medicare & Medicaid Services' (CMS) draft notices for Medicare and Medicare Advantage hospital inpatients: *Important Message from Medicare (IM)* and *Detailed Notice of Discharge*.

Overall, the draft notices are clearer and more understandable than previous versions. In particular, the description of discharge rights in the (IM) is more prominent, concise and useful to patients. Additionally, the information about patient liability pending appeals is clearer and easier to understand.

We suggest the following revisions to the notices and additions to instructions in order to help patients benefit when they receive a copy of their signed IM prior to discharge, to make the notices even more readable and user-friendly, and to insure timely delivery of this notice.

Help Patients Benefit From the IM Upon Discharge.

We are concerned that upon receiving a copy of their signed IM prior to discharge ("follow up notice"), many patients will fail to read or use it because they will not realize that it relates to

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their impending discharge. To help patients benefit from the follow up notice, we suggest the following:

- Change the title of the IM to include the word, "discharge" (i.e., "*An Important Message from Medicare about Your Inpatient and Discharge Rights*");
- In the first section listing hospital inpatient rights, add a bullet alerting persons that they will receive a copy of their signed notice prior to discharge; and
- Require hospitals and Medicare Advantage plans to deliver the follow up notice and explain its relevance when patients are told of their discharge.

In the March 23, 2007, *Revisions to the Important Message from Medicare*, CMS indicates it added the bullet telling persons to call 1-800 Medicare if they have insufficient time to consider their rights, to address concerns "that beneficiaries may be given the notice on their way out of the hospital." We query, however, whether this information will actually help patients. First, CMS has not indicated that 1-800 personnel have the authority to extend the deadline for patients to file a QIO appeal. Second, even if 1-800 personnel have the authority to intervene, it is not always possible to reach a live person on a timely basis. We therefore suggest that this bullet be deleted.

Make the Notices More User-friendly and Readable

As we mentioned above, the notices are generally clear and understandable. To make them more concise and user-friendly, we recommend the following:

- In the IM, bold the deadline for requesting QIO review to call the reader's attention to this critical information;
- In the IM, delete the bullet advising patients to contact 1-800 Medicare if they do not think they have sufficient time to appeal, for the reasons mentioned above;
- Require that information written into the *Detailed Notice of Discharge* be legible.

Ensure Timely Delivery of the "Follow up Notice" so Patients who want to will have the Opportunity to Exercise their Appeal Rights

According to the regulations, hospitals and plans must deliver the follow up notice as far in advance of discharge as possible, but not more than 2 calendar days before discharge." 42 C.F.R. §§ 405.1205 (c)(1); 422.620 (c)(1). Because there is no deadline for delivering this notice, our concern is that many patients could receive it too late, after they have lost any meaningful opportunity to exercise their appeal rights. Notices will be useless to patients if they are delivered as they are packing to leave or being wheeled out the door.

To promote the timely delivery of the follow-up notice, we suggest the following:

- Require that the patient's signature, with date and time of delivery, be obtained on the follow-up notice and that a copy be kept in the patient's record. The information could

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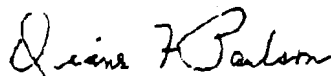
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be recorded in the "Additional Information" section. This will allow CMS to monitor when the notices are actually delivered, will discourage hospitals from delivering notices too late, and help assure that notice is actually delivered to the patient.) Requiring the record is warranted given its importance in ensuring the patients actually receive the notice in time to consider their appeal rights. This assurance far outweighs any argument a hospital might raise suggesting that this is too burdensome a requirement.

- CMS should devise a standard to measure whether notices are delivered "as far in advance of discharge as possible." 42 C.F.R. §§ 405.1205 (c)(1); 422.620 (c)(1). Such a standard should require that the discharge notice ideally be delivered to patients no later than the day prior to discharge or, if specific, identified information is not available until the day of discharge, at least five hours prior to discharge. The standard should also specifically prohibit hospitals from adopting a blanket policy of delivering the notices on the day of discharge.

Thank you for the opportunity to submit these comments on behalf of our clients

Very truly yours,



Diane F Paulson
Senior Attorney

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OMB Desk Officer: OMB Human Resources and Housing Branch
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Re: Important Message from Medicare, CMS R-193 (OMB#: 093-0692);
 Detailed Notice of Discharge, CMS-10066 (OMB#: 0938-New)
 72 Fed. Reg. 17169 (April 6, 2007)

Dear Sir or Madam:

The Center for Medicare Advocacy, Inc., works to obtain Medicare coverage for persons with Medicare, and to enforce rights to related health care for low-income people, seniors, and persons with disabilities. We appreciate the opportunity to submit the following comments regarding the Centers for Medicare & Medicaid Services' (CMS) draft notices for Medicare and Medicare Advantage hospital inpatients: *Important Message from Medicare* and *Detailed Notice of Discharge*.

Overall, the draft notices are clearer and more understandable than previous versions. In particular, the description of discharge rights in the *Important Message* is more prominent, concise and useful to patients. Additionally, the information about patient liability pending appeals is clearer and more comprehensible.

We suggest the following revisions to the notices and additions to instructions to help patients benefit from the second *Important Message* upon discharge; to ensure timely delivery of this notice, and to make both notices more readable and user-friendly.

Help Patients Benefit From the *Important Message* Upon Discharge.

We are concerned that upon receiving the copy of the *Important Message* prior to discharge (“follow up notice”), many patients will fail to read or use it because they will not realize that it relates to their impending discharge. To help patients benefit from the follow up notice, we suggest the following:

- Change the title to include the word, “discharge” (i.e., “*An Important Message From Medicare about Your Inpatient and Discharge Rights*”);
- In the first section listing hospital inpatient rights, add a bullet alerting persons that they will receive a copy of the notice prior to discharge; and
- Require hospitals and Medicare Advantage plans to deliver the follow up notice and explain its relevance when patients are told of their discharge.

Ensure Timely Delivery of the Second *Important Message* to Afford Patients the Opportunity to Exercise their Appeal Rights

Hospitals and plans must deliver the second *Important Message* “as far in advance of discharge as possible, but not more than 2 calendar days before discharge.” 42 CFR §§ 405.1205 (c)(1); 422.620 (c)(1). Because there is no deadline for delivering the follow up notice, many patients could receive it too late, after they have lost any meaningful opportunity to exercise their appeal rights. Notices will be useless to patients if they are delivered as they are packing to leave or being wheeled out the door.

In the *Revisions to the Important Message from Medicare*, CMS indicates it added the bullet telling persons to call 1-800-Medicare if they have insufficient time to consider their rights, to address concerns “that beneficiaries may be given the notice on their way out of the hospital.” *Revisions to the Important Message from Medicare* (March 23, 2007). However, we do not understand how this information helps patients. First, CMS has not indicated that 1-800 operators have the authority to extend the deadline for patients to file a QIO appeal. Second, even if 1-800 operators have the authority to intervene, 1-800-Medicare does not have the capacity to respond quickly enough. To promote the timely delivery of the follow-up notice, we suggest the following:

- Require that the patient’s signature, with date and time of delivery, is obtained on the follow-up notice and that a copy is kept in the patient’s record. The information could be recorded in the “Additional Information” section. This record will allow CMS to monitor when the notices are actually delivered and will discourage hospitals from delivering them too late. (It will also help to assure that notice is actually delivered to the patient.) Requiring the record is warranted given its importance in ensuring the patients actually receive the notice in time to consider their appeal rights.

- CMS should devise a standard to measure whether notices are delivered “as far in advance of discharge as possible.” 42 CFR §§ 405.1205 (c)(1); 422.620 (c)(1). Such a standard should require that the discharge notice is delivered to patients on the day prior to discharge or, if specific, identified information is not available until the day of discharge, require that the notice is delivered at least five hours prior to discharge. The standard should also specifically prohibit hospitals from adopting a blanket policy of delivering the notices on the day of discharge.

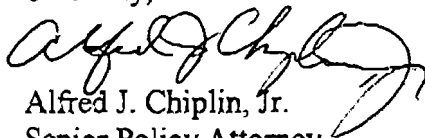
Make the Notices More User-friendly and Readable

As we mentioned above, the notices are generally clearer and more understandable. To make them more concise and user-friendly, we recommend the following:

- In the *Important Message*, bold the deadline for requesting QIO review to call the reader’s attention to this critical information;
- In the *Important Message*, delete the bullet advising patients to contact 1-800-Medicare if they do not think they have sufficient time to appeal, for the reasons mentioned above;
- Require that information written into the *Detailed Notice of Discharge* is legible.

We thank you for the opportunity to submit these comments.

Sincerely,



Alfred J. Chiplin, Jr.
Senior Policy Attorney
Managing Attorney