CMS Proposed Rule Adds New QIO Notice Requirement

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Under a proposed rule published by the Centers for Medicare & Medicaid Services (CMS), thousands of Medicare providers and suppliers would have an obligation to provide Medicare beneficiaries with written notice about the right to contact a Quality Improvement Organization to report concerns over quality. According to CMS, the initiative is aimed at improving quality of care for all patients.

The Centers for Medicare & Medicaid Services (CMS) published a proposed rule February 2, 2011, which would require most Medicare-participating providers and suppliers to provide Medicare beneficiaries written notice about their right to contact a Medicare Quality Improvement Organization (QIO) with concerns about the quality of care they receive from the provider or supplier. Under current rules, only hospital inpatient Medicare beneficiaries must be provided with information about contacting their state QIO for quality of care issues.

According to Head of CMS Donald Berwick, M.D., the proposed rule "would ensure that beneficiaries know they have a voice in the care they receive under the Medicare program." As a result, Berwick said beneficiaries would be able "to bring worries about quality of care to a third party for review, which can lead to better care not only for the beneficiary, but for all patients in a given care setting."

The Secretary of the Department of Health and Human Services has established regulatory requirements each provider and supplier must meet in order to participate in the Medicare and Medicaid programs. These requirements are generally called the Conditions of

Participation (COP) for providers (except that for long-term care facilities, they are called requirements) and are called the Conditions for Coverage (CFC) for suppliers. COPs and CFCs establish health and safety measures intended to ensure a minimum level of quality care for all Medicare patients.

The proposed rule would make it a COP or CFC that certain providers and suppliers give the written notice of right to contact a QIO to each Medicare beneficiary. If the rule is adopted as proposed, Medicare beneficiaries would receive written notice about how to contact a QIO when

such Medicare beneficiary receives care from the following 10 types of Medicare providers and suppliers:

- Clinics, rehabilitation agencies and public health agencies that provide outpatient physical therapy and speech-language-pathology services
- Comprehensive outpatient rehabilitation facilities
- Critical access hospitals
- Home health agencies**(HHAs)**
- Hospices
- Hospitals (including in connection with outpatient treatment)
- Long-term care facilities
- Ambulatory surgical centers**(ASCs)**
- Portable x-ray services
- Rural health clinics and Federally Qualified Health

CMS estimates that tens of thousands of Medicare certified facilities will be subject to the QIO requirement for the first time under the proposed rule (*e.g.*, 5,174 ASCs and 9,787 HHAs) resulting in millions of new QIO notices being provided. For ASCs alone, CMS estimates an aggregate total of more than 6 million QIO notices will be required.

CMS currently contracts with 53 QIOs (one in each state, the District of Columbia, Puerto Rico and the U.S. Virgin Islands). Each QIO is staffed by professionals, mostly doctors and other health care professionals, who are trained to review medical care and help beneficiaries with complaints about the quality of care they receive. The QIO's staff also work directly with providers and facilities to make improvements in quality across all care settings.

One of the key tools QIOs are supposed to use to improve quality of care given by providers and suppliers is to respond to complaints from Medicare beneficiaries regarding the care they receive from Medicare-participating providers and suppliers. QIOs investigate these complaints, gather facts from all parties involved and recommend action to help providers and suppliers improve quality of care. Berwick has said "Medicare beneficiary complaints are an important source of information that QIOs use to improve the quality of care for all patients," adding that providers may be "unaware of problems or the reasons for these problems until a beneficiary shows the courage to 'speak up' and report the issue to the third-party QIO."

Stakeholders may submit comments to CMS on the proposed rule until April 3, 2011. Comments may be submitted via email to OIRA_submission@omb.eop.gov. Additional information may be found on the CMS website. View a list of each of the 53 QIOs and contact information.