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CMS – COP Grievance Process

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Background

- CMS CoP July 1999
 - Governing body responsible for handling grievances, but can delegate the responsibility - must be in writing.
 - Grievances require a timely resolution with a written response of the outcome of the grievance review and investigation, including:
 - The name of the hospital contact person
 - The steps taken on behalf of the patient to investigate the grievance.
 - The results of the grievance process; and
 - The date of completion.
 - Grievance Committee – purpose is to assure the hospital uses the data to improve patient care.

CMS Change – Effective May 28, 2004

- Clarification of the term Grievance
- 7 Day acknowledgement letter
- Written response

Patient Advocates

- Society for Healthcare Advocacy (SHCA)
- Medicare Modernization Act (MMA)

Society for Healthcare Advocacy

- American Hospital Association personal membership group for health care consumer advocate professionals

Medicare Modernization Act

- Incorporates substantial beneficiary rights and protections similar to those in original Medicare and from the Medicare Advantage program
- Creates new rights and protections that are specific to the drug benefit program

August 22, 2005 CoP Update

- Section §482.13
- Addresses the following:
 - Who can handle patient complaints
 - When complaints should be categorized as grievances
 - Requirements for responding to patient grievances
 - When a grievance is considered resolved

Patient Rights §482.13

- Effective September 19, 2005
- ***Please ensure that all appropriate staff are fully informed***

CoP §482.13 (a) (2)

A-0041

- The hospital must establish a process for prompt resolution of patient grievances and must inform each patient whom to contact to file a grievance.

A-0042

- The hospital's governing body must approve and be responsible for the effective operation of the grievance process, and must review and resolve grievances, unless it delegates the responsibility in writing to a grievance committee.

A-0043

- The grievance process must include a mechanism for timely referral of patient concerns regarding quality of care or premature discharge to the appropriate Utilization and Quality Control, Quality Improvement Organization.

CoP §482.13 (a) (2)

A-0044

- The hospital must establish a clearly explained procedure for the submission of a patient's written or verbal grievance to the hospital

A-0045

- The grievance process must specify time frames for review of the grievance and the provision of a response.

A-0046

- In its resolution of the grievance, the hospital must provide the patient with written notice of its decision that contains the name of the hospital contact person, the steps taken on behalf of the patient to investigate the grievance, the results of the grievance process, and the date of completion.

What is a Grievance?

- A Patient Grievance is a written or verbal complaint by a patient, or the patient's representative, regarding the patient's care
 - When the complaint has not been resolved at that time by staff present
 - Abuse or neglect
 - Affects the hospital's compliance with the CMS Hospital Conditions of Participation

Patient Grievance

- Staff present includes any hospital staff member who is immediately available to take care of the patient's complaint.
 - If a staff member is available to address the concern, the complaint is not considered a grievance.
- If the concern cannot be resolved at that time, is postponed for later resolution, is referred to other staff for later resolution, requires investigation, and/or further actions to resolve concern – ***the issue is a grievance.***

Patient Grievance

- Billing issues are not usually considered a grievance, however;
 - Medicare beneficiary billing complaints are considered CoP issues and are therefore considered a grievance
- Any formal written complaint is **ALWAYS** considered a grievance.
 - E-mails & faxes are considered to be written

Patient Grievance

- If patient attaches a letter to patient satisfaction survey, describing complaints, this is to be treated as a grievance
- If a patient writes comments on patient satisfaction survey that the hospital would normally treat as a grievance, these are to be treated as a grievance as well.

Patient Grievance

- Telephone calls received from patient or patient representative describing patient care issues are to be categorized as a grievance
- Post hospital verbal communications which would have been handled by staff present if staff was aware of the complaint do not have to be categorized as a grievance
 - includes patient satisfaction survey information

Patient Grievance

- All verbal and written complaints regarding abuse, neglect, patient harm, or hospital compliance with CMS requirements are to be considered a grievance
- Any request by patient or patient representative to file a formal grievance should be considered a grievance

Response to the Patient

- Resolution is requested to be sent in writing within 7 days.
 - CMS will review to be sure that a response is sent on an average of 7 days
- If cannot resolve within 7 days, send an acknowledgement letter with date when resolution/response letter will be sent.
 - in accordance to hospital grievance policy

Response to the Patient

- Resolution is to be communicated appropriately, in a language and manner the patient or patient's legal representative understands
- The hospital may use additional tools to resolve a grievance
 - meetings with the family
 - in all cases a written notice must be provided

Response to the Patient

- If a patient communicates to the hospital via e-mail or requests a resolution by e-mail, an e-mail response is acceptable (check your hospital policy regarding email to the patient)
- The hospital is not required to include statements that could be used in a legal action against the hospital, however;
 - *the hospital must provide the name of the hospital*
 - *contact person*
 - *steps taken on behalf of the patient to investigate grievance and*
 - *results of the grievance process on all grievance letters.*

Grievance Resolution

- Grievance is considered resolved when the patient is satisfied with the actions taken on his/her behalfhowever,
- There may be situations where the hospital has taken appropriate actions on the patient's behalf in order to resolve the grievance and the patient or patient's representative remains unsatisfied.
 - In these situations the hospital may consider the grievance resolved for the purposes of this requirement.
 - The hospital must maintain documentation

CMS Surveyor Procedures

- Review of hospital policies and procedures to assure the grievance process encourages all personnel to alert appropriate staff concerning any patient grievance.
- Determine if the hospital adheres to its policy/procedure established for referrals
- Interviews patient or patient legal representative to determine if they know how to file a complaint (grievance) and who to contact with a complaint or grievance.

CMS Surveyor Procedures

- Determine if the hospital is following the established grievance policy and procedures.
- Determine if the hospital process assures that grievances involving situations or practices that place the patient in immediate danger are resolved in a timely manner.
- Determine if the patient or representative know that he/she has the right to file a complaint with the State agency as well as or instead of utilizing the hospital's grievance process.

CMS Surveyor Procedures

- Determine if the hospital has provided the telephone number for the State agency to **all** patients/patient representatives.
- Determine if the beneficiary is aware of his/her right to seek review by the state QIO for quality of care issues, coverage decisions, and to appeal a premature discharge.

CMS Surveyor Procedures

- Identify if the hospital's governing body approved the grievance process.
- Determine if the governing body is responsible for reviewing and resolving grievances or has the governing body delegated the responsibility in writing to a grievance committee.
- Determine efficiency of the grievance process.

CMS Surveyor Procedures

- Assess if the patient or representative's concerns are addressed in a timely manner.
- Determine if the patient is informed of any resolution of the grievance.
- Identify if the hospital applies what it learned from the grievance as part of its continuous quality improvement activities.
- Determine if the facility reviews and analyzes the grievance process through the hospital Quality Improvement Process that provides oversight of the grievance process.

CMS Surveyor Procedures

- Surveyor will review discharge materials regarding 42 CFR §489.27
 - Coordination between the hospital existing mechanisms for utilization review notice and referral to QIO for Medicare beneficiary concerns
 - The hospital informs all beneficiaries of this right, and complies with his/her request if the beneficiary asks for QIO review.

CMS Surveyor Procedures

- Determine if the grievance process includes a mechanism for timely referrals of Medicare beneficiary to the QIO.
- Identify what time frames are established.
- Interview Medicare patients and determine if he/she is aware of their right to appeal premature discharge.

CMS Surveyor Procedures

- Review information provided to patient's that explain the grievance process.
- Identify that the information clearly explains how to submit either a verbal or written grievance.
- Interview the patient or representative to determine if they know about the grievance process and how to submit a grievance.

CMS Surveyor Procedures

- Identify what time frames are established to review and respond to patient grievances.
- Determine if the time frames are clearly explained in the information provided to the patient that explains the hospital's grievance process.
- Review the hospital's copies of written notices to the patients.
- Determine if **ALL** patients are provided a written response.
- Determine if the written response complies with the requirements.

Additional Information

- Grievance committee (Governing Body)
 - Can be ad hoc but must be more than one person
- Does not require the patient representative be involved in every grievance.
 - However, you do need a mechanism where all grievances are logged into a central location

Important

- Non-compliance anywhere in the organization affects the entire organization.
- How you use the data
- Process be tied to your quality assurance program

Resources

- SHCA website – www.shca-aha.org
- CMS website – www.cms.hhs.gov

Questions?