Beneficiary and Family Centered Care Quality Improvement Organization Provider/Practitioner Frequently Asked Questions

In response to questions being asked by providers, practitioners, and stakeholders who work with beneficiaries, the Beneficiary and Family Centered Care National Coordinating Center (BFCC-NCC) has prepared this document.

Responses below that describe a beneficiary's rights or steps to follow also apply to the beneficiary's representative.

1. **What led to changes in the BFCC-QIO program review process?**

   The changes resulted from revisions to the Quality Improvement Organization (QIO) regulations, published in the Federal Register Final Rule, November 12, 2012.

2. **What specific sections of the regulations address changes to the BFCC-QIO review process?**

   The new regulations, published in the Final Rule, include the addition of the following sections, which were added to Subpart C—Review Responsibilities of BFCC-QIOs:

   - 476.110 (Use of Immediate Advocacy to resolve oral beneficiary complaints)
   - 476.120 (Submission of written beneficiary complaints)
   - 476.130 (Beneficiary complaint review procedures)
   - 476.140 (Beneficiary complaint reconsideration procedures)
   - 476.150 (Abandoned complaints and reopening rights)
   - 476.160 (General quality of care review procedures)
   - 476.170 (General quality of care reconsideration procedures)

3. **Are there any changes to the Internet-Only Manual guidelines as a result of the changes in regulation?**

   Yes. Many chapters of the Internet-Only Manual are being revised.

4. **Are BFCC-QIOs required to obtain consent from providers/practitioners to release information about their final initial determination to Medicare beneficiaries?**

   No. Under the new regulations, the BFCC-QIO no longer requires provider/practitioner consent to disclose the detailed findings of quality of care reviews that result from beneficiary complaints. This disclosure applies to both oral complaints and written complaints and serves to encourage transparency of the BFCC-QIO review process.

5. **What does "Immediate Advocacy" (IA) mean for the provider or practitioner?**

   If the BFCC-QIO determines that IA is an option to resolve the beneficiary's verbal complaint, then the BFCC-QIO may offer IA if the beneficiary's verbal complaint is received no later than 6 months from the date on which the care that led to the complaint occurred.

   The BFCC-QIO may offer the option of IA if one of the two following facts applies:

   - The complaint is unrelated to clinical quality of health care, but relates to items or services that are related to the medical care, or
   - The complaint is related to clinical quality of health care received, but not to the level of being "a gross and flagrant, substantial, or significant quality of care concern."

   The BFCC-QIO will contact the provider/practitioner to obtain consent to participate in the IA process. All participants must consent to IA.

6. **What is the role of the beneficiary, provider and/or practitioner, in the process of IA and the effort to resolve an oral complaint?**

   All participants must give verbal consent to IA and agree to the limitations on redisclosure of information. Anyone taking part may decide to discontinue participation with IA at any time.

7. **Who determines if IA is an option for resolving a beneficiary's complaint?**

   The BFCC-QIO decides if a complaint is eligible for IA.

8. **Will the BFCC-QIO ask for medical records during the IA process?**

   In most IA cases, the BFCC-QIO determines that the complaint is unrelated to information that would be in the beneficiary's medical record. Therefore, the medical record is generally not needed to address the complaint.

9. **Can the BFCC-QIO disclose information to beneficiaries about closed complaint reviews?**

   Yes. Written requests may be made to the BFCC-QIO for the release of the detailed review findings on closed complaint reviews in which the provider/ practitioner did not consent to the release of the findings. However, this disclosure applies only to complaints received by the BFCC-QIO after January 1, 2013.

   Note: The BFCC-QIOs may not make new requests for medical records or other documentation or conduct new reviews on these closed cases.

10. **How will the BFCC-QIO handle a request about a closed complaint review from a beneficiary's representative?**

    When responding to requests from someone other than the beneficiary, the BFCC-QIO will ensure that the complaint is from a designated representative in accordance with existing policy, and will process the request consistent with that policy.

11. **How much time will providers/practitioners have to respond to a request for medical records?**

    Generally, once the BFCC-QIO receives a complaint from a Medicare beneficiary, providers/practitioners must deliver all medical information requested within fourteen (14) calendar days of the request. However, in certain cases, the BFCC- QIO may require the medical information sooner if circumstances warrant.

12. **If the BFCC-QIO notifies the provider/practitioner that the medical records received are incomplete or illegible, how long does the provider/practitioner have to resubmit (or send additional) medical information?**

    If the BFCC-QIO contacts the provider/practitioner by telephone about incomplete or illegible records, an additional five (5) calendar days may be allowed to submit the documentation requested.

13. What happens if the provider/practitioner does not supply the medical information within the time frame requested by the BFCC-QIO?

If a provider/practitioner fails to meet the time frame or does not cooperate with the BFCC-QIO regarding delivery of medical information, the BFCC-QIO may issue an initial denial determination (technical denial) for those claims it is unable to review and may report the matter to the Health and Human Services (HHS) Inspector General.

14. Will the BFCC-QIO inform the provider/practitioner that the request for medical records is in response to a beneficiary's complaint, and if so, what information is shared regarding this request for medical information?

Yes. When the BFCC-QIO requests medical information in response to a Medicare beneficiary complaint, the BFCC-QIO must notify the provider/practitioner.

The BFCC-QIO will also explain that the provider/practitioner has a right:

- To discuss the BFCC-QIO's interim initial determination, where the BFCC-QIO determines that the standard of care did not meet recognized standard(s) of care, and
- To request the name of a contact person in order to ensure timely communication and completion of the discussion process.

15. When will the BFCC-QIO notify the provider/practitioner of its interim initial determination?

If the peer reviewer determines that the care met professionally recognized standards of care, then the provider/practitioner will be notified of the interim initial determination within ten (10) calendar days of the receipt of all medical information.

If the peer reviewer determines that the care *did not meet* professionally recognized standards of care for any concern in the complaint, the provider/practitioner will be notified by telephone.

16. If the BFCC-QIO peer reviewer determines that the care *did not meet* professionally recognized standards of care, does the provider/practitioner have an opportunity to discuss this?

Yes. When the interim initial determination is that the standard of care for any concern did not meet professionally recognized standards, the provider/practitioner will be notified by telephone and offered the opportunity for discussion. The discussion must be held no later than seven (7) days from the date of the initial offer for discussion.

Note: On a limited basis, the BFCC-QIO may extend the time frame for the opportunity for discussion an additional seven (7) calendar days.

17. Does the provider/practitioner have the opportunity to submit a written statement in lieu of a discussion?

Yes. Written statements in lieu of a discussion must be received no later than seven (7) calendar days from the date of the initial offer for discussion.

18. What happens if the provider/practitioner does not respond to the BFCC-QIO's offer of an opportunity for discussion?

If the provider/practitioner does not respond to the BFCC-QIO's offer of an opportunity for discussion within seven (7) calendar days, the BFCC-QIO's interim initial determination shall become final.

19. If the provider/practitioner's response is not received on time, may it still be considered by the BFCC-QIO before the interim initial determination becomes a final initial determination?

Although the interim initial determination becomes final if the discussion or response is not received on time, in rare circumstances, the BFCC-QIO may decide to grant additional time for the provider/practitioner to complete the discussion or submit a written statement.

20. How does the BFCC-QIO notify the beneficiary of the complaint review decision?

The new regulation requires the BFCC-QIO to notify the beneficiary of a final initial determination by telephone. In addition, the BFCC-QIO must issue written notification of its final initial determination within five (5) calendar days after the review of the complaint is complete.

21. What information does the BFCC-QIO include in its initial determination notification to the Medicare beneficiary and to the provider/practitioner?

The new regulation requires that all parties receive written notice of the BFCC-QIO's final initial determination, and this notice must include:

- A statement for each concern that care did or did not meet the standard of care;
- The standard identified by the BFCC-QIO for each of the concerns; and
- A summary of the specific facts that the BFCC-QIO determines are pertinent to its findings, including references to medical information and, if held, the discussion with the involved provider/practitioner.

22. Will the BFCC-QIO send a written final initial determination to the provider/practitioner?

Yes. In all cases, the BFCC-QIO must issue written notification of its final initial determination to the provider/practitioner.

23. If the BFCC-QIO determines that the care did not meet professionally recognized standards, when will the provider/practitioner receive notification of the BFCC-QIO's final initial determination?

If the BFCC-QIO's peer reviewer finds that the standard of care was not met, the provider/practitioner will be notified by telephone of the final initial determination no later than three (3) business days after the discussion or receipt of the provider/practitioner's written statement. The BFCC-QIO will also notify the provider/practitioner of the right to request a reconsideration of the BFCC-QIO's final initial determination.

24. If the BFCC-QIO determines that the standard of care was met, when will the provider/practitioner receive notification of the BFCC-QIO's final initial determination?

If the BFCC-QIO's peer reviewer finds that the standard of care was met, the provider/practitioner will be notified no later than three (3) business days, by telephone, after completion of the complaint review determination.

25. In addition to notification by telephone, will written notice be sent?

Yes. The new regulation requires that all parties receive written notice of the BFCC-QIO's final initial determination.

26. Will the provider/practitioner have an opportunity to submit a request for a reconsideration of the BFCC-QIO's final initial determination regarding a beneficiary complaint?

Yes. Generally, a Medicare beneficiary or provider/practitioner who is dissatisfied with a BFCC-QIO's final initial determination has a right to request a reconsideration, in writing or by telephone.

27. In what limited cases would a request for reconsideration not be an option for providers/practitioners?

Reconsideration is NOT applicable in the following cases:

- Non-confirmed quality concerns
- Complaints for which the standard of care was determined to have been met

28. How long does the provider/practitioner have to submit a request for reconsideration of the BFCC-QIO's final initial determination?

The provider/practitioner has three (3) calendar days following initial verbal or written notification of the BFCC-QIO's final initial determination to submit a request for reconsideration.

29. Can the provider/practitioner submit additional information during the process of a request for reconsideration?

Yes. The BFCC-QIO must offer the Medicare beneficiary and the provider/practitioner an opportunity to provide new or additional medical information. The Medicare beneficiary and provider/ practitioner may, but are not required to, submit additional information to be considered by the BFCC-QIO in making its reconsideration decision.

Any additional information should be submitted within seven (7) days of the reconsideration request. The BFCC-QIO will proceed with the reconsideration no later than seven (7) days after the beneficiary or provider/practitioner requests reconsideration.

30. Can the BFCC-QIO request additional information during the reconsideration process?

Yes. The Medicare beneficiary and the provider/practitioner must be available to answer any questions or supply any information that the BFCC-QIO requests in order to conduct the reconsideration.

31. When will the BFCC-QIO inform the provider/practitioner of the BFCC-QIO's final decision regarding the reconsideration?

The BFCC-QIO must complete the reconsideration review and notify the beneficiary and the provider/practitioner of its decision no later than five (5) calendar days after receipt of the request for a reconsideration, or, if later, five (5) calendar days after receiving any medical or other records needed for the reconsideration.

The BFCC-QIO may provide initial notification by telephone, but written notice to the beneficiary and provider/practitioner regarding the final determination will be mailed by noon of the next calendar day after the reconsideration review is complete.

32. What information does the BFCC-QIO include in its written notice of final reconsideration determination relating to a beneficiary complaint?

The BFCC-QIO is instructed to include the following information in its final written reconsideration decision:

- A statement for each concern that care did or did not meet the standard of care;
- The standard identified by the BFCC-QIO for each of the concerns;
- A summary of the specific facts that the BFCC-QIO determines are related to its findings; and
- A statement that there is no right to further appeal.

33. What is post-review advocacy?

Post-review advocacy is an additional, voluntary, and informal process that the BFCC-QIO may offer to the beneficiary and provider/practitioner to resolve a dispute in cases in which the review was completed and no significant quality of care concern was identified.

34. In what type of situations might post-review advocacy be used?

Post-review advocacy is an alternative dispute resolution process that may be suggested by the BFCC-QIO when the beneficiary has continuing concerns and may benefit from this process. This process requires consent of the beneficiary and the provider/practitioner. The beneficiary must agree to disclosure of the beneficiary's identity to the provider/practitioner. The beneficiary may decide to discontinue the post-review advocacy process at any time during the process.

35. When is a general quality of care review conducted?

A BFCC-QIO may conduct a general quality of care review in the following situations:

- Concerns are identified during the course of other BFCC-QIO activities;
- Referrals are received from other sources, including but not limited to individuals, contractors, and other Federal or State agencies; or
- Analysis of data

36. Can a provider/practitioner object to the standard used by the BFCC-QIO for conducting quality of care reviews?

The BFCC-QIO will make every effort to use evidence-based standards of care to perform the review and, in the absence of established standards, will use available norms, best practices, and established guidelines. The BFCC-QIO standard used to complete the review is not subject to appeal.

37. How long does the provider/practitioner have to deliver all medical information requested by the BFCC-QIO for general quality of care reviews?

Generally, the provider/practitioner will have fourteen (14) days to deliver the information requested by the BFCC-QIO. However, less time may be provided by the BFCC-QIO based on the type of case review. If a provider/practitioner fails to meet the time frame or does not cooperate with the BFCC-QIO in delivery of medical information, the BFCC-QIO may report the matter to the HHS Inspector General. In addition, the BFCC-QIO may issue an initial denial determination for those claims it is unable to review and report the matter to the HHS Inspector General.

38. Will the providers/practitioners have an opportunity for discussion during the general quality of care initial review process?

No. The BFCC-QIO will not offer an opportunity for discussion during a general quality of care review but will offer the right to reconsideration following the initial determination.

39. Can the provider/practitioner appeal the initial determination? If yes, how is this request made?

Yes. Beginning with reviews started after July 31, 2014, a provider/practitioner who wants reconsideration of the review may make a request to the BFCC-QIO for

reconsideration. The request for reconsideration must be received by the BFCC-QIO, in writing or by telephone, no later than three (3) calendar days following receipt of the BFCC-QIO's initial determination.

The reconsideration process will require that the second peer reviewer be a different reviewer than the one who performed the initial review.

40. Can the provider/practitioner submit additional information with the request for reconsideration?

The provider/practitioner must be offered the opportunity, but is not required, to provide further information for the reconsideration process.

41. Can the BFCC-QIO request additional information during the reconsideration process?

Yes. The provider/practitioner must be available to answer any questions or supply any information that the BFCC-QIO requests for the reconsideration.

42. When will the BFCC-QIO make a final decision about reconsideration?

The BFCC-QIO must complete the review and notify the provider/practitioner of its decision no later than five (5) calendar days after receipt of the request for reconsideration. The final decision may take longer than five (5) days if the BFCC-QIO receives any medical or other records needed for reconsideration. In cases in which additional medical or other records are received, the BFCC-QIO will complete the review and notify the provider/practitioner within five (5) calendar days after receipt of these records.

43. What information does the BFCC-QIO include in its final reconsideration determination relating to general quality of care review?

The BFCC-QIO is instructed to include the following information in its final written reconsideration decision:

- A statement for each concern that care did or did not meet the standard of care;
- The standard identified by the BFCC-QIO for each of the concerns;
- A summary of the specific facts that the BFCC-QIO determines are related to its findings; and
- A statement that there is no right to further appeal.

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