

LEGAL EASE



Kathleen Martin is an attorney with O'Donnell, Weiss & Mattei, P.C., and a newspaper columnist for The Mercury, which gave permission for this article to be reprinted.

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Be aware of new hospital requirements for those on Medicare

Some readers may recognize the written notice that hospitals have been required to give Medicare beneficiaries before discharge called "Hospital-Issued Notice of Non-Coverage" or HINN. However, as of July 1, 2007, new notice requirements require hospitals to give Medicare clients information about their discharge and appeal rights. (Reported in www.elderlawanswers.com, on September 5, 2007). Unless you are in the hospital for three days or less, the hospital must give you a notice right after admission, and one before discharge. For those admitted for three days or less, then only one notice is necessary.

One of the major benefits of Medicare is hospitalization coverage. Medicare covers 90 days of hospitalization per illness (plus a 60 day "lifetime reserve"). However, even if you have Medicare as your insurance, the hospital may try to discharge you before you are ready. The hospital cannot force you to leave, but they can start charging you for services. If you know your rights, and how to appeal, even if you don't win, you can buy crucial extra days of coverage for which you will not be charged.

The new notice requirements work like this. Within two days of admission to the hospital, the Medicare client must receive a notice called, "An Important Message from Medicare about your Rights." This notice explains the patient's discharge and appeal rights. The patient must read the notice, sign it and date it. Then, two days before discharge, the hospital must give the patient another copy of the "Important Message" notice. If the patient is not ready for discharge, it is the patient's responsibility to contact the local QIO or Quality Improvement Organization immediately. The contact must be made by noon on first business day after the discharge notice is received. If you comply with this, you will not be required to pay for care while your appeal is being reviewed. If you fail to contact the QOI by the specified time limit, the hospital can begin charging you on the third day after you receive the discharge notice.

The QIO is a group of doctors and other professionals whose job it is to monitor the quality of care delivered to Medicare beneficiaries. They are paid by the federal government, and are not connected or affiliated with any hospital or HMO. The number to reach them is on the "Important Message" form.

Once you have requested a QIO review, the hospital is required to give the patient a "Detailed Notice of Discharge." The patient must receive this notice no later than noon the day after the QIO review. This notice will explain in detail the medical reason behind the discharge. In the meantime, the QIO will review the discharge for the medical necessity, appropriateness, and the quality of hospital treatment furnished to you. Most importantly, the hospital cannot discharge or charge the patient while the matter is under review.

If the patient does not agree with the decision of the QIO, he or she can ask for reconsideration. The decision must be issued within three days. After reconsideration, the QIO still agrees with the hospital's decision, the patient can appeal to an Administrative Law Judge (ALJ). The patient can choose to involve legal counsel at any point in the process, but will most likely need a lawyer to help if he or she gets to this point in the process. An unfavorable ALJ decision can be appealed to the Department of Health and Human Services, Departmental Appeals Board (DAB). Finally, if you do not agree with the DAB decision, you can appeal to federal court, as long as at least \$1,000 is at stake. Pennsylvania may have particular discharge protections, and the local QOI will be familiar with these.