

Policy and Procedure

Title: Processing Grievances

Original Date: 7/20/2013, 5/6/2014

Approval Date: 5/6/2014

Quality Insights Renal Network 4

Policy and Procedure for Processing Grievances

Purpose

The purpose of the Grievance Policy and Procedure is to protect patient rights and to establish a systematic process for the investigation of problems and concerns received from ESRD beneficiaries, their family or designees. With the establishment of a grievances review procedure, Quality Insights Renal Network 4 encourages open communication between patients and staff of the ESRD healthcare provider and fosters the resolution of complaints and problems on a local level. Further, this policy provides a means whereby patients can bring problems before an objective outside authority without intimidation, fear of discrimination and reprisal.

Policy

Network 4 provides a proactive role in the prevention, facilitation and resolution of grievances, including implementing educational programs that will assist facility staff in handling difficult situations. It is the responsibility of Network 4 to assure an impartial review of grievances by appropriate Patient Services staff, Clinical Review staff, or by a Physician Peer Review Subcommittee of the Network 4 Medical Review Board. The outcome of the investigation may be reported to the Network 4 Medical Review Board. Network 4's role in investigating a grievance will vary depending upon the situation. Network 4 advocates for patient rights with the understanding that the patient is responsible for his/her own behavior and the consequences of such.

Background

This document is intended to define the internal procedures by which Network 4, its Medical Review Board (MRB) and Grievance Committee (GC) address grievances from patients, facility staff, and other agencies, or problems identified through Network 4 Quality improvement activities. This internal policy is reflective of CMS Contract and ESRD Network Organizational Manual (Chapter 9) requirements.

The Networks case review responsibilities include investigating and resolving grievances filed and addressing non-grievance access to care cases. The Network will assist dialysis facilities and transplant centers in adjusting to the heightened focus on patient-and family- centered care to help them optimize customer service. The Network is also responsible for monitoring any

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consequences that may occur as a result of contact with the Network as well as working to ensure that patients are able to file grievances without fear of reprisal.

Provider and /or practitioner(s) are reminded of their responsibility to support the grievant throughout the grievance process and that no reprisal may be imposed as a result of the grievance.

Federal regulations at 42 CFR §494.180(i) requires a dialysis facility to “cooperate with the ESRD Network designated for its geographical area, in fulfilling the terms of the Network’s current Statement of Work” and to “participate in the ESRD Network activities and pursue Network goals.”

Additionally, the Conditions for Coverage for End-Stage-Renal-Disease Facilities (ESRD CFCs) address facility responsibilities with respect to “Patient Rights” at 42 CFR § 494.70(a). These include the rights to:

“... (14) Be informed of the facility’s internal grievance process; (15) Be informed of external grievance mechanisms and process, including how to contact the ESRD Network and the State Survey Agency; (16) Be informed of his or her right to file internal grievances or external grievances or both without reprisal or denial of services; and (17) Be informed that he or she may file internal or external grievances, personally, anonymously or through a representative of the patient’s choosing.”

Authority

The authority for this procedure is provided in Section §1881(c)(2)(D); of the Social Security Act and the Omnibus Budget Reconciliation Act of 1986. As amended; CMS regulation at 42 CFR §494 Conditions for Coverage for ESRD facilities. In addition, the Omnibus Budget Reconciliation Act amended the Act in 1989 to provide ESRD Network Organizations with confidentiality in the medical record review process (§1160 of the Act) and a limitation on liability (§1157 of the Act.)

Social Security Act requires the Network to implement “a procedure for evaluating and resolving patient grievances.” Additionally, under §1881(c)(2)(E), the Network is responsible for “conducting on-site reviews of facilities and providers as necessary as determined by the Network’s MRB or the Secretary of Health and Human Services utilizing standards of care established by the Network to assure proper medical care.” Under §1881(c) (2) (G), the Network is responsible for identifying ESRD providers that are not cooperating towards meeting Network goals and assisting [them] in developing appropriate plans for correction...”

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ESRD Grievance Procedure

Patient and Facility Awareness

Network 4 encourages resolution of patient and facility staff grievance at the local level whenever possible. Federal guidelines specify that Medicare-certified facilities adopt written policies and procedures regarding patient rights and responsibilities and that these policies and procedures be made available to patients/caregivers (42 CFR §494.70). Patients are to be informed of their rights and responsibilities, including facility procedures for addressing patient grievances and the existence of a Network-level procedure for reviewing issues that cannot be resolved locally.

Network Role

The role of the Network may vary when resolving a grievance. The Network may act as an investigator, facilitator, advocate, and referral source and/or case coordinator.

Patient Representatives

Appointed Representative: An individual appointed by an ESRD patient to represent the patient in the grievance process. If an ESRD patient wishes to appoint such a representative, he or she must do so in writing using the Appointment of Personal Representative Form or equivalent documentation. When a patient appoints a representative, the patient gives the representative the right to communicate with the Network on the patient's behalf. The appointing individual can revoke any authority given to an appointed representative at any time.

Authorized Representative: An individual, appointed by a court of competent jurisdiction, to act on a patient's behalf -OR- An individual, who is otherwise authorized under applicable law, to act on a patient's behalf. A court may appoint a Guardian of the Person if the individual is deemed incompetent. A court appointment may be for a single action or transaction or it may last for the life of the individual. An individual may designate an authorized representative by executing a document such as power of attorney or durable power of attorney. Such a representative can be empowered to conduct a single transaction or to assume ongoing responsibility for an identified purpose. An authorized representative has all of the rights of the patient with respect to the grievance process.

Representative: An individual who represents an ESRD patient in the grievance process. Patient representatives include appointed representatives and authorized representatives, as well as other individuals representing ESRD patients consistent with 42 CFR §494.70(a)(17).

Conflict of Interest

Any member of the Network staff, MRB, or Board of Directors who has direct or indirect financial; professional or personal involvement with a grievant or with a provider or practitioner

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who is the subject of a grievance will not participate in the investigation and resolution of the grievance. See 42 CFR § 405.2113(b): "Restrictions on medical review board members."

Receipt of a Grievance

A grievance can be submitted to the Network in person by telephone, mail, or fax. The Network accepts grievances outside of normal business hours, via a voicemail system that notes the date and time of calls. Messages captured outside of the Network's normal business hours by voicemail, fax, or mail will be responded to on the next business day.

The Network may receive an oral or written grievance from:

- An ESRD patient
- An ESRD patient may be represented in the grievance process by an appointed representative, an authorized representative, or another individual of the patient's choosing who represents the patient in accordance with 42 CFR §494.70(a)(17)
- A patient advocate
- A facility employee acting on behalf of a patient(s)
- A physician or other practitioner acting on behalf of a patient(s)
- A federal or state agency
- The 1-800-MEDICARE hotline
- Another agency or organization, e.g., a Quality Improvement Organization (QIO), SSA, or another ESRD Network
- An anonymous source

Additionally, the Network may be directed to investigate certain cases by the CMS Contracting Officer's Representative (COR) or CMS Central Office. Other sources, such as the media, may also make the Network aware of issues that could prompt an investigation.

If at any point the grievant alleges that she/he or another person is in imminent danger of serious harm, or the Network has reason to believe that one or more individuals may be in imminent danger of serious harm based on events described by the grievant, the Network will refer the case to the SSA and notify the COR. The Network will mail a letter notifying the grievant of the referral according to the procedures outlined in §90 of ESRD Network Organizational Manual (Chapter 9), unless the allegation of imminent danger of harm was made anonymously.

If at any point the Network suspects that patient care is being compromised or denied due to discrimination on the basis of race/ethnicity, religion, national origin, age, sex, familial status, sexual orientation, gender identity, disability, or veteran status, the Network will notify the COR and refer the case to the Office for Civil Rights (OCR) for investigation.

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If the Network has reason to believe that a law has been broken, the Network will refer the case to a law enforcement agency (ices).

Confidentiality and Disclosure

A grievant' identity is confidential information. The Network will not reveal the identity of the grievant to any other party unless the grievant specifically authorizes release of her/his name either orally or in writing. The main difference between a confidential grievant and an anonymous grievant is that the Network is unable to contact an anonymous grievant to inform him/her of the steps taken to investigate the grievance or the outcome of the investigation.

Provider-specific information is not considered confidential and can be disclosed to a grievant as long as it does not explicitly or implicitly identify any patient or practitioner who has not consented to disclosure of his/her identity.

A third party can file a grievance on behalf of an ESRD patient without being an appointed or authorized representative of the patient; however, such an individual is not authorized to receive a written report of findings that contains any information that implicitly or explicitly identifies the patient. In addition, such an individual is not authorized to receive any written information that implicitly or explicitly identifies a practitioner unless the Network has received the practitioner's permission to disclose her/his identity to the grievant.

An appointed or authorized representative who files a grievance on behalf of a dialysis patient will receive a written report of findings as long as the report does not explicitly identify a practitioner who has not provided permission to disclose his/her identity to the grievant. Article 42 CFR, Part 480, permits disclosure of a patient's identity to the SSA at the request of the SSA.



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Potential Outcomes of Grievance Process

Closed: A case is closed when the Network grievance activities are completed and no further action can be taken by the Network. A grievance is considered resolved when the grievance has been explained, corrected, or settled by the Network and the grievant understands the outcome.

Referral: If the Network determines a grievance would more appropriately be handled by another agency or organization, the Network will make the referral and provide the referral information to the grievant.

Appeal: When the Network considers a grievance resolved, but the grievant does not accept the Network's findings, the grievant may request an appeal. The Network will open the appeal as a new case linked to the original case.

Approved by QIRN4 Medical Review Board

May 6, 2014
Approval Date

Approved by QIRN4 Board of Directors

May 9, 2014
Approval Date