

# Mediation will be option for resolving Medicare beneficiary complaints

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Quality of care complaints most often arise from a patient's perception of error or negligence rather than certifiable acts or omissions. When complaints occur, one of the least confrontational ways to address them is through mediation.

Beginning this fall, a new mediation program will allow physicians and health care providers to engage in a discussion with patients who have filed a quality of care complaint against them through Medicare. The program, sponsored by the Centers for Medicare & Medicaid Services (CMS), brings together a provider or physician and a patient or his/her representative for a face-to-face meeting facilitated by an impartial mediator. This mediation is an alternative to the traditional medical record review process.

In 1998, the Centers for Medicare & Medicaid Services sponsored a one-year pilot test of mediation to resolve Medicare beneficiary complaints. The pilot revealed that mediation can engender high satisfaction among beneficiar-

ies as well as improve relationships between them and their providers and practitioners. The pilot also indicated that mediation may reduce allegations of malpractice brought to court trials.

Currently, each beneficiary complaint goes through a medical record review process that can last anywhere from 85 to 165 days, depending on whether or not a quality of care concern is found.

The types of cases that initially could go to mediation are those where significant quality of care problems are not present. After a complaint is received, MetaStar, the quality improvement organization for Wisconsin, determines its suitability for mediation.

Some examples of cases suitable for mediation include the following:

- The beneficiary says they were given the wrong medicine, and the medical record shows the medicine was correct, but the instructions given were not clear or completely understood.
- The beneficiary's representative states his or her parent was discharged before he or she was able to walk. The medical record shows that the patient could walk with assistance, physical therapy in the home was ordered, but the family did not understand what arrangements had to be made to start the care at home.
- The beneficiary states that the care received from an orthope-

dist for neck pain did not help her. The medical record shows that the physician discussed a variety of available options for care; however, the beneficiary did not make a choice and did not return for a follow-up visit.

If the case is found to be suitable for mediation, the review case manager will contact the beneficiary and physician or provider to offer this new option. Both parties have to agree to participate in order to proceed.

A mediation session would be conducted face-to-face, or occasionally by phone if the two parties involved are unable to meet at the same time and place because of distance or disability. A typical mediation session takes between two and four hours.

The key features of the mediation process include

- It is facilitated by a professional, impartial mediator.
- Participation in mediation, at no cost to either party, is voluntary.
- The session is strictly confidential. No records are kept of the proceedings. By law, nothing that is said can be used against anyone in court or for other purposes.
- Each party is given a chance to tell his or her story and to respond to statements being made.
- Either party can withdraw from the process at anytime.

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During a mediation session, the mediator helps the parties come to an agreement, and to interpret what is being said and what is happening in the exchanges between both parties. A successful mediation usually results in an agreement being signed by both parties.

If the parties involved do not agree or if either party wants to withdraw from mediation at any time, the case will be returned to the medical record review process.

For more information on the mediation program, contact Betty Azim, Vice President of Review Services, at [bazim@metastar.com](mailto:bazim@metastar.com) or 800.362.2320, ext. 8265.



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