

# Notification of Hospital Discharge Appeal Rights (CMS-4105-F)

## Background



# Hospitals Affected by this Rule

- Any facility providing care at the inpatient hospital level
  - short term or long term
  - acute or non acute
  - paid through a prospective payment system or other reimbursement basis
  - limited to specialty care or providing a broader spectrum of services.
- Includes critical access hospitals

# Hospital Exclusions

- Swing beds in hospitals when used as skilled nursing beds
- Outpatient departments (ED, Observation Beds)
- Religious non-medical health care institutions

# Medicare Beneficiaries Covered by the Rule

- All hospital inpatients who are Medicare **Part A** beneficiaries
  - Beneficiaries in Original Medicare
  - Enrollees in Medicare Advantage and other Medicare health plans under MA regulations
  - Dual eligibles
  - Beneficiaries with Medicare as a secondary payer

# IM: Delivery Requirements for the Initial Copy

- Delivered within 2 calendar days of admission or at preadmission, but not more than 7 calendar days before admission
- Using Standardized Notice (CMS-R-193)
- Ensure beneficiary comprehension
- Signed and dated by beneficiary
- Beneficiary gets copy
- Hospital retains a copy

# IM: Delivery Requirements for the Follow-up Copy

- Deliver as far in advance as possible before discharge, but no more than 2 calendar days before the day of discharge
- Deliver on the day of discharge only when necessary
- Hospitals must document delivery and demonstrate compliance

# Notice Delivery to Representatives

- Hospitals should have processes for identifying who may act for the beneficiary in accordance with state or other applicable law.
- Delivery may be by phone (not by voicemail) with a notice mailed or faxed that same day

# Notice Delivery to Representatives (CONTINUED)

- If a representative agrees, notices may be e-mailed or faxed
- Electronic transmissions must meet HIPAA requirements
- If unable to reach by phone, the notice may be sent by certified/tracked mail

# Requesting QIO Review

- Beneficiary must submit a request to the QIO **no later than the day of discharge**
- Beneficiary should not be discharged if he/she request QIO review
- Request may be in writing or by telephone
- Beneficiary should be available to discuss the case with the QIO
- Beneficiary may submit written evidence to the QIO

# Plan Responsibilities During Review

- Deliver the Detailed Notice of Discharge (DND) using the standardized notice
  - The NODMAR is no longer used
- Provide the Detailed Notice and all information the QIO needs no later than noon of the day after the plan is notified of the appeal

# Plan Responsibilities During Review

## (CONTINUED)

- If requested, provide copy of information to beneficiary
- Failure to give the QIO needed information may result in a delay in making the decision or a decision based on the evidence on hand.
- Delegating delivery of the DND to the hospital does not eliminate plan responsibility

# QIO Responsibilities

- Notify the hospital of the beneficiary's request for a review
- Receive and examine records
- Determine if delivery of the IM and DND was valid
- Solicit beneficiary's views
- Solicit hospital's views
- Issue a decision within the applicable time frame

# QIO Decision-making Timeframes:

- Timely requests – one calendar day after all information is received
- Untimely request (in hospital) – 2 calendar days after all information is received
- Untimely request (not in hospital) – 30 calendar days after all information is received

# Timely Requests: Liability During the QIO Review

There is no enrollee liability except for coinsurance and deductibles for inpatient hospital services furnished before noon of the day after the QIO notifies the beneficiary of its decision.

# Timely Request: Liability after QIO Review

- QIO agrees with the discharge decision: Liability for continued services begins at noon of the day after the QIO notifies the enrollee, or as determined by the QIO
- QIO disagrees with the discharge decision: No enrollee liability for continued care (other than coinsurance and deductibles for inpatient hospital services)

# Untimely Requests: Liability During QIO Review

Enrollees who miss the deadline:

- May request an appeal with the Medicare health plan
- May be charged for services provided by the hospital after the discharge date if the enrollee remains in the hospital
- Will be refunded any money collected, if the plan, MAXIMUS, or other reviewer disagree with the discharge decision

# Special Considerations

- Inpatient to inpatient transfers
- Change of status from inpatient to outpatient (Condition Code 44)
- Hospital requested review (42 CFR Part 405.1208)

# Special Considerations for Medicare Health Plans

- Hospitals are responsible for delivery of the Important Message
- Plan may delegate delivery of the Detailed Notice but are ultimately responsible for ensuring delivery of the notice
- If the request for review of a discharge is late, the plan does the review
- Reconsiderations by the QIO may follow different decision-making timeframes
- Special rules for transfers from an out-of-network hospital to a network hospital

# For More Information

- [www.cms.hhs.gov/BNI](http://www.cms.hhs.gov/BNI), click on “Hospital Discharge Appeal Notices”
- Send questions to:  
[Weichardt\\_ODF@cms.hhs.gov](mailto:Weichardt_ODF@cms.hhs.gov)



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# Lumetra Hospital Discharges

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Quality



Safety



Efficiency

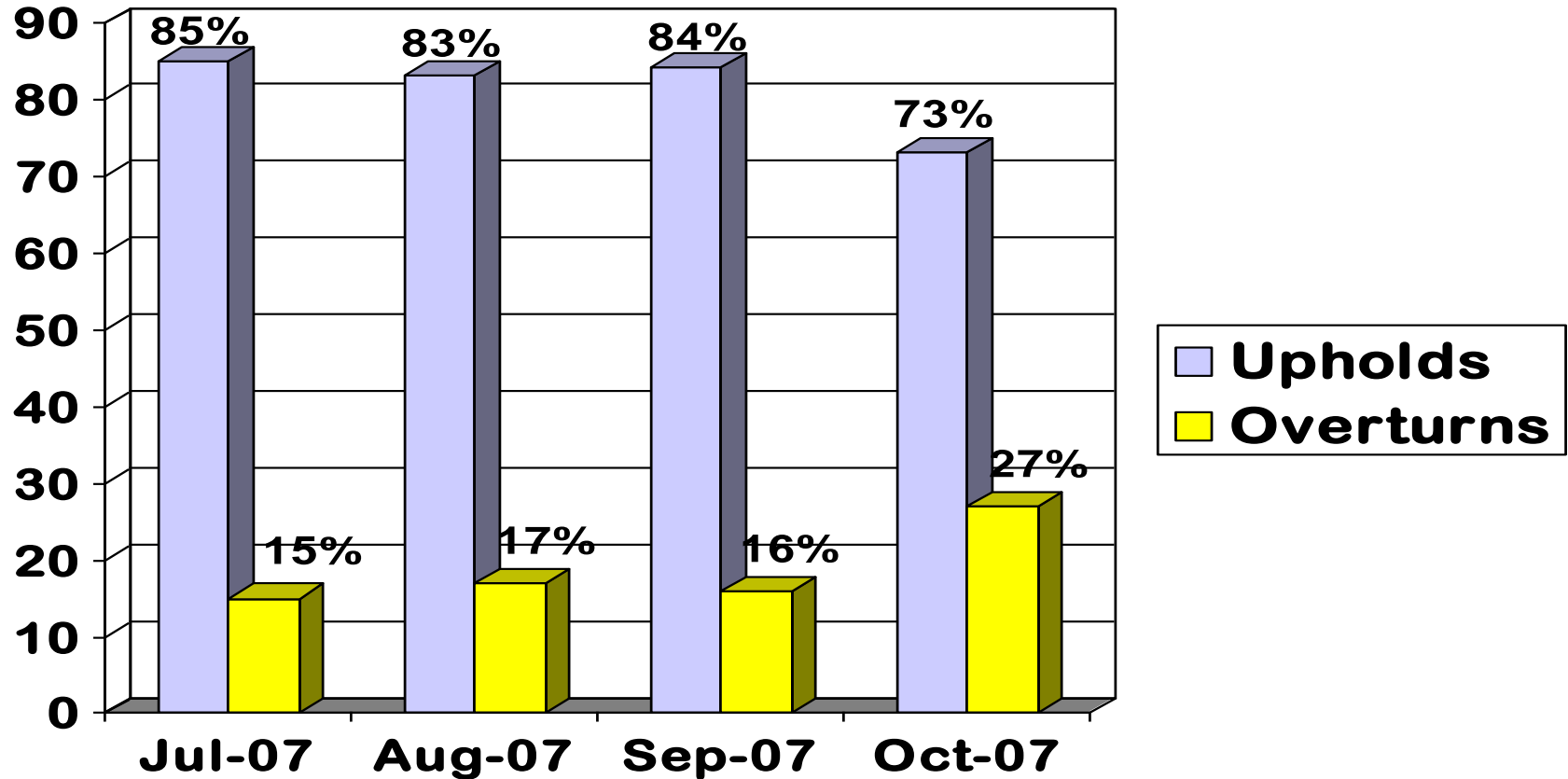


Integrity

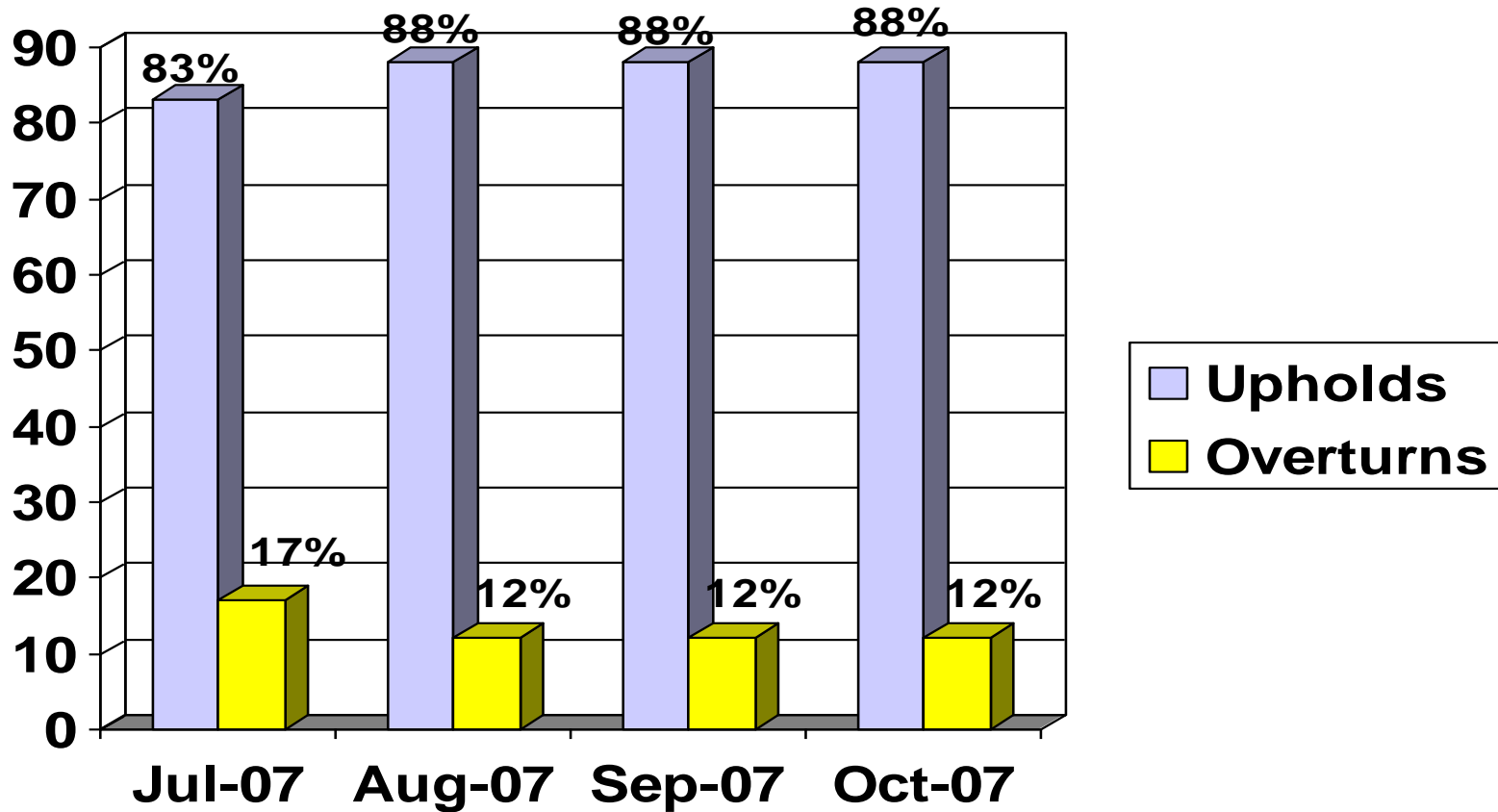
# IM Appeals Cases - May'07 to October'07

	May'07	June	July	Aug.	Sept.	Oct.	Totals
<b>IM-MA Requested</b>	0	0	87	135	112	134	<b>468</b>
<b>IM-MA Completed</b>	0	0	62	84	61	75	<b>282</b>
<b>IM-MA Withdrawn</b>	0	0	7	42	29	28	<b>106</b>
<b>IM-MA Rescinded</b>	0	0	4	9	9	16	<b>38</b>
<b>Nodmars</b>	49	29	-	-	-	-	<b>78</b>
<b>IM-FFS Requested</b>	0	0	49	99	102	76	<b>326</b>
<b>IM-FFS Completed</b>	0	0	45	51	58	40	<b>194</b>
<b>IM-FFS Withdrawn</b>	0	0	1	31	16	16	<b>64</b>
<b>IM-FFS Rescinded</b>	0	0	1	10	9	8	<b>28</b>
<b>HINNs</b>	9	21	5	2	3	7	<b>47</b>

# IM-MA Upholds VS. Overturns



# IM- FFS Upholds VS. Overturns



# Contact Information

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# Notification of Hospital Discharge Appeal Rights

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CMS Nurse Consultant

# SCENARIO

- Mr. Rogers is admitted to Heavenly Hospital with CHF on October 1<sup>st</sup>. On October 2<sup>nd</sup> the hospital issues the IM. Mr. Rogers stabilizes and is scheduled for discharge on October 6<sup>th</sup>. On October 4<sup>th</sup> the hospital delivers a copy of the signed IM. On October 5<sup>th</sup> Mr. Rogers appeals to the QIO, the QIO notifies the health plan of the appeal and the health plan delivers the DND. On October 6<sup>th</sup> & 7<sup>th</sup> the QIO reviews and upholds the discharge decision. On October 8<sup>th</sup> Mr. Rogers is discharged.

# Notification of Hospital Discharge Appeal Rights

## QUESTIONS AND ANSWERS

# Questions & Answers

1. Please confirm that for all Medicare beneficiaries, be they Fee-for-Service or Medicare Advantage Plan members, the hospital is responsible for timely, valid delivery of the Important Message (IM) both the 1st notice and a 2nd IM notice (if needed depending on the length of the hospital stay).

**Answer:** Hospitals are responsible for delivering the IM to all Medicare inpatients, whether they are in original Medicare or enrolled in a Medicare health plan.

# Questions & Answers

2. Please confirm that if the hospital is responsible for delivery of the IM even to MA members, then CMS will not be auditing the MA plan for delivery of the IM. Therefore, the MA does not have to keep copies of the IM in order to be able to produce a universe from which to pull sample files for a CMS on-site audit.

**Answer:** That is correct. However, they should keep a file of those IMs from people who appeal to the QIO since they should have copies of the paperwork that the plan (and hospital if applicable) gave to the QIO which includes both notices.

# Questions & Answers

3. Please confirm that for MA plan members the MA plan is responsible for delivery of the Detailed Notice of Discharge (DND) either directly or through delegation

**Answer:** That is correct

# Questions & Answers

4a. If the MA plan is primarily responsible for delivery of the DND, will the MA Monitoring Review Guide that CMS uses to conduct on-site audits of MA plans be revised to include an element auditing for valid, timely delivery of the DND?

**Answer:** The present requirement for delivering the DENC to SNF patients should be the same for the DND to inpatients (almost identical scenarios). If the DENC is part of the guide, the DND should be as well.

# Questions & Answers

4b. If so, when will the MA monitoring guide be revised?

**Answer:** There is no definitive date when the MA monitoring guide will be revised to include the “Hospital Discharge Appeal Rights” process.

# Questions & Answers

5a. Hospitals had previously issued the NODMAR which stated the effective date and reason for the inpatient non-covered days. The new IM is a standard notice and does not have space for the information that the NODMAR previously provided. The DND allows for this information but this is provided to the patient when the patient appeals to the QIO. Should the facility be only verbally informing the member of the dates/amounts that Medicare will no longer cover for their inpatient stay and document this in their medical records?

# Questions & Answers

**Answer:** This rule was not intended to delineate liability for managed care enrollees. Other than providing the date of discharge, the NODMAR was not intended to be a specific liability notice either (the liability message was similar to what is now in the IM). Since the attending physician must agree to the discharge before the NODMAR could be delivered, we assume that plans and hospitals were communicating about this date before the NODMAR was sent. We assume that hospitals will have documents in the patient records that record the discharge date and that this date will be provided/communicated to the plans.

# Questions & Answers

5b. Can the facility also include this information on the copy of the 2nd IM notice that is given to the patient before discharge in the last section labeled “Additional Information”?

# Questions & Answers

**Answer:** Since there are no official liability notices for managed care enrollees (at least at this time), plans may communicate issues of coverage with their enrollees using their own method (you may want to provide a copy of your letter/notice if applicable to your regional office plan manager in case he or she sees any blatant problems but there is no formal requirement). However, the IM is a hospital generated notice informing them of the discharge date and should not be used to break down specific plan coverage limitations.

# Questions & Answers

6. When the Medicare health plan and physician want to discharge the patient but the hospital disagrees, how do the parties proceed?

# Questions & Answers

**Answer:** CMS expects physicians, plans and hospitals to continue working together in developing appropriate discharge plans for patients. This is a normal part of the business coordination that takes place between plans and hospitals. Nevertheless, since the Medicare health plan is responsible for the DND and can make the discharge decision in consultation with the attending physician. The reasons for the discharge should reflect the plan's determination, even if delivery of the DND is delegated to the hospital.

# Questions & Answers

7. What process can a patient use to appeal a discharge decision if the patient has exhausted Part A days but is utilizing inpatient days offered by the Medicare health plan as part of his or her benefit package?

# Questions & Answers

**Answer:** In cases where a patient's Medicare Part A days are exhausted, the QIO does not have authority to review additional plan specific benefits beyond those guaranteed to all enrollees under Title XVIII. However, much like an optional supplemental benefit, the enrollee could file an expedited appeal with the plan, and, if necessary, subsequently appeal to CMS' independent review entity, and an ALJ.

# Questions & Answers

8. Patient is sitting in a non-contracted psychiatric unit waiting for placement. The attending MD and the hospital agree that the patient doesn't need to be there. They explain that the county would pick up the costs if a denial notice is issued and that the member would be held harmless. What notice does the health plan/group issue in that situation?

# Questions & Answers

**Answer:** The hospital must give the IM to the member 2 days prior to the discharge date. The member must be competent to understand the IM or have a representative that understands the notice. The IM is the only notice required as it addresses the discharge of a patient from one level to another (acute to SNF, custodial or home, etc).

# Questions & Answers

9a. Member is being discharged from the hospital with physician concurrence. He/she received the IM on admission and a copy 2 days prior to discharge. However, the member does not leave the hospital by his/her discharge date and does not file any appeal with the QIO. What should the health plan/group do in this case when notified the member has not left the facility?

# Questions & Answers

**Answer:** The health plan/group must ensure that the member has received and signed the IM and received the second IM if indicated 2 days prior to discharge.

# Questions & Answers

9b. The main concern is to ensure that the member understands that they will be financially liable for the additional days beyond the discharge date so is the health plan/group required to issue any kind of notice to advise them of this?

# Questions & Answers

**Answer:** The member should only need to receive the IM to be made aware of the end of coverage. If the member received the IM 2 days before discharge and doesn't leave, then the health plan/group can have a discussion with the member about financial liability. When the member doesn't make a timely appeal to the QIO, he/she retains the right to an expedited appeal with the health plan. However, the member may be held liable for charges incurred after the day of discharge.

# Notification of Hospital Discharge Appeal Rights

## HANDOUTS

- Federal Register 42 CFR Parts 405, 422 & 489
- Important Message from Medicare (IM)
- Detailed Notice of Discharge (DN)

# Notification of Hospital Discharge Appeal Rights

## HANDOUTS

- Weichardt Frequently Asked Questions Revised 8/21/07
- CMS Memo Dated June 1, 2007, “Immediate Review Process for Hospital Inpatients in Medicare Health Plans”

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**THANK YOU!!**