

Compliance Today – November 2019 Hidden compliance risk area: Patient grievances

By Sheila P. Limmroth, CIA, CHC

Sheila P. Limmroth (sheila.limmroth@dchsystem.com) is Privacy Officer and Legal Services Specialist at DCH Health System in Tuscaloosa, AL.

Healthcare facilities should want to hear patient concerns in an effort to improve service. It is good business to address patient concerns and determine how processes and, ultimately, patient safety can be improved. Healthcare organizations that accept Medicare and Medicaid funding are required to meet patient grievance requirements published in the Centers for Medicare & Medicaid Services (CMS) Conditions of Participation (CoPs).^[1] CMS has also published Interpretive Guidelines (Appendix A of the State Operations Manual^[2]) on the CMS website to assist organizations in developing a compliant patient grievance process. A robust patient grievance process can also prevent a negative outcome from a state Department of Public Health survey, reduce civil monetary penalties, improve patient safety, and improve the quality of care patients receive by addressing any systemic issues.

An in-depth compliance review of the grievance process can assist a facility in determining whether Medicare CoPs are consistently met and whether the organization is prepared in the event of a state survey. This article explores CMS's expectations for a grievance program, based on experience gleaned from an Alabama Department of Public Health survey that was performed by two registered nurse surveyors across two days at our facility.

Definitions

Understanding the CMS definition of a grievance versus a complaint is key to determining compliance. According to 42 C.F.R. § 482.13(a)(2), a patient grievance is a formal or informal written or verbal complaint that is made to the hospital by a patient, or the patient's representative, regarding the patient's care (when the complaint is not resolved at the time of the complaint by staff present), abuse or neglect, issues related to the hospital's compliance with the CMS Hospital CoPs, or a Medicare beneficiary billing complaint related to rights and limitations provided by 42 C.F.R. § 489.

The Interpretive Guidelines for Hospitals, which a state's Department of Public Health will use when conducting a survey of the patient grievance process, provides healthcare providers with additional details related to the definition of a patient grievance:

- "Staff present" includes any hospital staff present at the time of the complaint or who can quickly be at the patient's location (e.g., nursing, administration, nursing supervisors, patient advocates) to resolve the patient's complaint.
- If a patient care complaint cannot be resolved at the time of the complaint by staff present, is postponed for later resolution, is referred to other staff for later resolution, requires investigation, and/or requires further actions for resolution, then the complaint is a grievance for the purposes of these requirements.
- A written complaint is always considered a grievance.

- Information obtained from patient satisfaction surveys usually does not meet the definition of a grievance. If an identified patient writes or attaches a written complaint on the survey and requests resolution, then the complaint meets the definition of a grievance.

Patient complaints that are considered grievances also include situations where a patient or a patient's representative telephones the hospital with a complaint regarding the patient's care or with an allegation of abuse or neglect, or failure of the hospital to comply with one or more CoPs or other CMS requirements.

All verbal or written complaints regarding abuse, neglect, patient harm, or hospital compliance with CMS requirements are considered grievances for the purposes of these requirements.

Whenever the patient or the patient's representative requests that their complaint be handled as a formal complaint or grievance, or when the patient requests a response from the hospital, the complaint is considered a grievance and all the requirements apply.

Data collected regarding patient grievances, as well as other complaints that are not defined as grievances (as determined by the hospital), must be incorporated in the hospital's Quality Assessment and Performance Improvement (QAPI) program.

In contrast to a patient grievance, a patient complaint is an issue that can be resolved promptly or within 24 hours and involves staff who are present (e.g., nursing, administration, patient advocates) at the time of the complaint. Complaints will typically involve minor issues such as room cleanliness, food preferences, lost personal belongings, or room temperature. In contrast, examples of grievances include failure to protect the patient's privacy, allegations of abuse by personnel, failure to provide needed medication(s), or failure to meet the patient's care expectations. Both complaints and grievances should be captured by the facility as part of quality improvement activities.

It is possible to stop a complaint from escalating into a grievance by having dedicated staff to solve small problems and employing a proactive approach to customer service. Many hospitals have a service recovery protocol to protect their reputation and restore patient and family trust. For example, our hospital has incorporated HEATT into our grievance program. The acronym stands for the following and is used by many hospitals:

- **Hear** the patient and listen to the concerns expressed.
- **Empathize** with the patient and/or family members.
- **Apologize** sincerely for inconvenience, misunderstandings, and negative experiences and address the patient's perceptions.
- **Take action** to correct issues quickly, fairly, and consistently.
- **Track and trend** by documenting the event for performance improvement.

Regardless of the service recovery model used, training is vital to the success of customer service recovery efforts. Frontline staff should feel empowered to act as the first line of defense against complaints and move toward swift resolution. Interviews with staff can assist the compliance professional in understanding whether patient concerns are appropriately categorized as complaints versus grievances, whether a service recovery model is used to assist in decreasing the number of grievances by timely addressing patient complaints at the bedside, and whether staff understands documentation requirements for grievances and complaints. Understanding expectations for a facility's grievance program is one of the first steps in reviewing the program.

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