Beneficiary Complaints – Medical Record Review

Filing a formal complaint about your care

Livanta is a Medicare Beneficiary and Family Centered Care - Quality Improvement Organization (BFCC-QIO) providing Medicare case reviews in 27 states and U.S. territories. As a BFCC-QIO, Livanta reviews thousands of quality of care complaints every year. Beneficiaries and their families and representatives may file complaints when they have received care or treatment that they believe is substandard.

When a Medicare beneficiary, family member, or other representative files a formal complaint, Livanta requests a copy of the medical record from one or more of the beneficiary's practitioners or other healthcare providers. Once received, the medical record is reviewed by one of Livanta's independent physician reviewers. The purpose of this review is to determine whether the care that was provided to the beneficiary met professionally accepted standards. Some complaints may be better addressed by Livanta's immediate advocacy team. The immediate advocacy service resolves many real-time problems, difficulties, or concerns about current or recent care. As a Medicare BFCC-QIO, Livanta must follow Medicare's rules and requirements for the beneficiary quality of care complaints process.

Livanta has prepared this document to help Medicare beneficiaries and their families understand the medical record review process better and their rights under that process. The information below is meant to be general guidance for common situations.

Section 1: Complaints – General Questions

1. **What is the purpose of the Medicare beneficiary complaint process and formal medical record review?**
   Medicare's beneficiary complaint and medical record review process is designed to verify if care met professionally accepted standards. If care concerns are confirmed, the QIO Program is authorized to educate and monitor the practitioner or other healthcare provider to ensure that quality of care is improved for all beneficiaries.
2. **What is the difference between beneficiary complaints and immediate advocacy?**
   When a Medicare beneficiary or representative files a formal complaint, it results in a medical record review by a Livanta physician reviewer, and the practitioner or other healthcare provider must comply with this process. Medical record reviews may take up to 45 days to complete but many are completed sooner. In contrast, Livanta's immediate advocacy service is designed to facilitate problem-solving in real time between a beneficiary or their representative and the practitioner or other healthcare provider. Immediate advocacy is a voluntary process for all involved parties. For FAQs about immediate advocacy, click the link below.
   - FAQs Immediate Advocacy: https://www.livantaqio.cms.gov/assets/files/Advocacy-FAQs.pdf
3. **What are the requirements to file a quality of care complaint for medical record review?**
   The complaint must meet the following criteria:

- The complaint must be filed within 3 years of the date of care or date of service.
- The complaint must describe a concern about the quality of care received.
- The care or service described in the complaint must have been payable at least in part by Medicare whether or not Medicare paid for the service.
- The complaint must be in writing using the standard Medicare form (CMS-10287).
- When beneficiaries or their representatives call Livanta with a quality of care complaint, Livanta can help write the language of the complaint on the CMS-10287, then mail the completed complaint form for signing and returning in a postage-paid envelope provided by Livanta.

4. **Can I file a complaint without disclosing my identity?**
   Yes. Medicare beneficiaries can make an anonymous complaint but will not be informed of the outcome of the anonymous medical record review. In these cases, Livanta does not disclose to the practitioner or other healthcare provider the reason for the medical record review or the source of the referral; however, Livanta cannot guarantee complete beneficiary anonymity because the Medicare beneficiary's name must be used when requesting medical records. Anonymous complaints will be investigated as fully as any other complaint.
5. **I am a relative or friend of the Medicare beneficiary. Am I allowed to file a quality of care complaint?**
   Yes. A complaint may be filed by the beneficiary or the beneficiary's representative. However, for Livanta to share confidential information with the beneficiary's representative, the beneficiary must appoint a representative. This can usually be done by having the beneficiary designate a representative using Form CMS-1696, a Power of Attorney form, or a similar document. A death certificate listing the next of kin will also suffice. A Medicare beneficiary may have only one representative.

Section 2: The Medical Record Review Process

1. **How does the complaint review process work?**
   When Livanta's quality team receives a complaint, they work with the Medicare beneficiary or appointed representative by phone to ensure the complaint form is complete and ready to process.

   a. Once complete, Livanta sends the completed complaint form for signature by postal mail to the beneficiary or representative with a prepaid return envelope. When Livanta receives the signed form, the quality team requests the beneficiary's medical record from the practitioner or other healthcare provider.
   b. Upon receiving the medical record, the case is assigned to a physician reviewer who is an independent board-certified physician. The physician reviewer conducts the medical record review and, once complete, the results are shared with the beneficiary or representative by phone and mail.
   c. The results are also forwarded to the practitioner or other healthcare provider. All parties are offered an opportunity for reconsideration of the results.

2. **How long does it take to get the results of the medical record review?**
   After Livanta receives your medical record from your provider, most reviews are completed in 30-45 days.
3. **Will Livanta interview me, my attending physician, or my family before making a determination?**
   No. Under Medicare regulations, Livanta must base its determination on the medical record, although the independent physician reviewer will also read letters and notes submitted with the complaint, whether they are from the Medicare beneficiary, family members, or others. The basis for the physician reviewer's decision is the medical record, but having the written opinion of other medical professionals, the beneficiary, family members, or others supporting their concerns can be helpful.
4. **Is a practitioner or other healthcare provider required to cooperate in the medical record review process?**
   Yes. A practitioner or other healthcare provider must send Livanta the relevant medical records upon Livanta's request. Failure to do so could result in financial penalties for the practitioner or other healthcare provider such as the loss of Medicare funding for that encounter.
5. **What are some typical complaints that Livanta reviews through the complaint process?**
   Livanta's contract with the Medicare program allows reviews for services to determine if the provided care and services were delivered according to professionally recognized standards of health care. Examples include, but are not limited to, the following:
   - Receiving the wrong medication
   - Receiving an overdose of medication
   - Receiving unnecessary surgery
   - Receiving unnecessary diagnostic testing
   - Experiencing a change in condition that was not treated
   - Receiving a misdiagnosis
   - Receiving inadequate discharge instructions
   - Experiencing a lack of information about a procedure
   - Experiencing a failure to test for suspected illnesses
6. **What types of complaints are not reviewable under Livanta's complaint process?**
   Some of the complaints that Livanta may not review include the following:
   - Billing issues - call 1-800-Medicare (1-800-633-4227)
   - Suspected financial fraud - call 1-800-Medicare (1-800-633-4227)
   - Medicare coverage questions - call 1-800-Medicare (1-800-633-4227)
   - Medicare enrollment issues - call 1-800-Medicare (1-800-633-4227)
   - Alleged rudeness or disrespect by a practitioner or other healthcare provider
   - Undercooked or cold food at a Medicare certified facility
   - Other safety, environmental, and interpersonal complaints
   - Other issues of a non-medical nature that cannot be confirmed through a review of medical records. Where possible, Livanta will attempt to address the complaint under the

immediate advocacy process or refer the caller to an agency or source that can act on such complaints.

7. **Can the result of the complaint review be used in a court proceeding?**
   No. The review results of the complaint are to be used for educational or disciplinary purposes only and may not be used for malpractice or other civil court procedures.

8. **How will Livanta ensure a fair and objective review of my case?**
   Livanta and its independent physician reviewers are not evaluated or paid based on the outcome of a case review. Also, Livanta's staff and physician reviewers are not permitted to have conflicts of interest. Potential conflicts are formally reviewed to ensure that each case is handled by staff and reviewers who are not personally familiar with the respective healthcare provider. Thus, Medicare beneficiaries should be reassured that their case review determination is objective and not subject to influence.

The FAQs above are educational only and are not legally binding on Livanta, on a Medicare beneficiary, or on the Medicare program.

This material was prepared by Livanta LLC, the Medicare Beneficiary and Family Centered Care - Quality Improvement Organization (BFCC-QIO) that provides claims review services nationwide and case review services for Medicare Regions 2, 3, 5, 7, and 9, under contract with the Centers for Medicare & Medicaid Services (CMS), an agency of the U.S. Department of Health and Human Services. The contents presented do not necessarily reflect CMS policy. 12-SOW-MD-2023-QIOBFCC-BENE83