



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Antonia C. Novello, M.D., M.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

October 3, 2006

Ms. Lillian Forgacs
Greater New York Hospital Association
555 West 57th Street
New York, New York 10019

Dear Ms. Forgacs:


Enclosed is DOH Health Facilities Memorandum 87-96 (Discharge Review Program) as well as an updated list of Department of Health approved Independent Professional Review Agents (IPRA's) authorized to conduct the Hospital Discharge Review Program. The Department regulations for this program can be found on the New York State Department of Health Website: <http://www.health.state.ny.us/nysdoh/phforum/nycrr10.htm>. Click on "Search Title 10" and type in 405.9.

Also enclosed is a series of questions and responses which address some of the most frequently raised issues.

I am requesting that the GNYHA distribute this material to the interested parties. I have also asked IPRO to provide this information along with the reissuance of their Discharge Review Program Procedures to all IPRO Hospital liaisons and to copy your office as well as other appropriate upstate associations. You may also wish to distribute this material to interested parties.

Thank you for your assistance on the important issues.

Sincerely,


Gerald Stenson
Hospital Program Administrator
Bureau of Hospital & Primary Care Services

Enclosure

cc: Independent Professional Review Agents (see attached list)

**NEW YORK STATE DEPARTMENT OF HEALTH
LIST OF APPROVED INDEPENDENT PROFESSIONAL REVIEW AGENTS
(IPRA)
APRIL 13, 2006**

MEDICAID REVIEW AGENT

Mr. Theodore O. Will
Chief Executive Officer
Island Peer Review Organization (IPRO)
1979 Marcus Avenue
Lake Success, New York 11042-1002

Phone #: (516) 326-7767

OTHER REVIEW AGENTS

Mr. Theodore O. Will
Chief Executive Officer
Island Peer Review Organization (IPRO)
1979 Marcus Avenue
Lake Success, New York 11042-1002

Phone #: (516) 326-7767

Ms. Barbara J. Parmese
President
NJPR – Hospital and Medical Support
Services
129 Littleton Road
Parsippany, New Jersey 07054

Phone #: (973) 334-3443

Mr. Joseph B. Stamm
President/CEO
New York County Health Services
Review Organization
1 Seaport Plaza
199 Water Street
27th Floor
New York, New York 10038

Phone #: (212) 897-6000

Mr. Philip A. Schuh, CPA
Vice President of Finance and
Administration
Empire State Medical, Scientific and
Educational Foundation, Inc.
420 Lakeville Road
Lake Success, New York 11042

Phone #: (516) 437-8134

MANAGED CARE ORGANIZATIONS/HMO'S

Mr. David W. Olikier
President/CEO
Mohawk Valley Physicians Health Care
Preferred Care
625 State Street
Schenectady, New York 12305

Phone #: (518) 388-2441

QUESTION AND ANSWER DOCUMENT

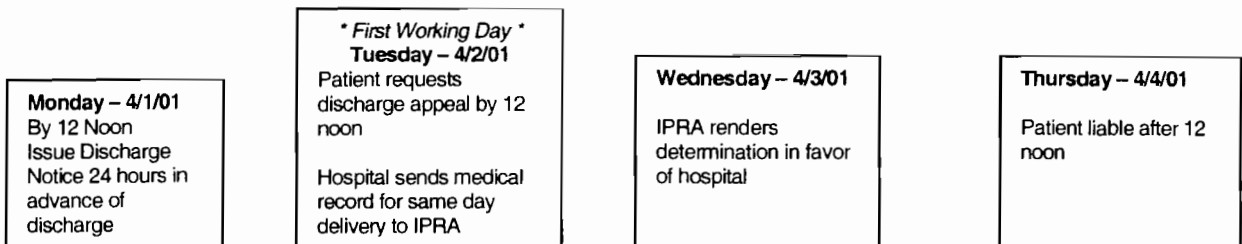
The Greater New York Hospital Association (GNYHA) provided the following questions and examples to the Department of Health (DOH). Answers were provided by the Department of Health.

1. **GNYHA Questions:** What standard does the Independent Professional Review Agents follow with particular regard to evaluating the hospital discharge notice when it receives a discharge appeal from a non-Medicare patient who is hospitalized and appealing his/her discharge? Does it review for timeliness in which the notice is issued? Are there other specific requirements that it would review for compliance?

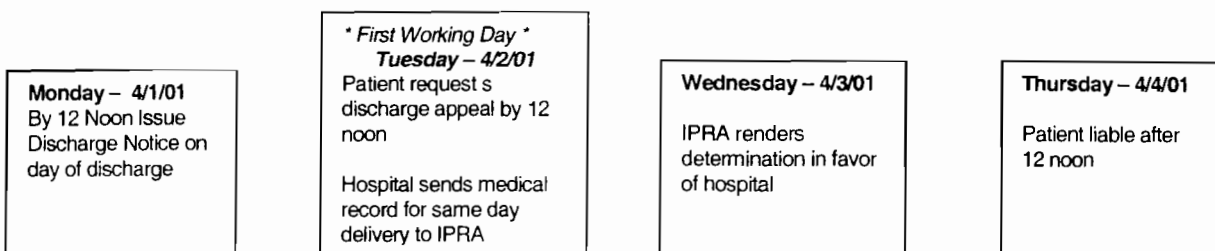
DOH Response: *IPRA looks at the dates, the signatures and completeness of the form. Regarding the timing, IPRA looks to see if it is given by noon on the day before the anticipated discharge or at the time of discharge in those instances where the discharge cannot be anticipated. The appeal can be initiated when the form is given. I.e. the patient does not have to wait 24 hours to appeal.*

2. **GNYHA Question:** Can you please confirm the timeframes for the following IPRA discharge review examples?

Case Payment Example A: Discharge Notice issued 24 hours in advance of discharge.
Discharge notice issued Monday – 4/1/01, discharge anticipated on Tuesday. Patient requests discharge appeal by noon Tuesday – 4/2/01 and, hospital sends medical record for same day delivery to IPRA. IPRA issues determination in favor of hospital and liability begins at noon of the day following IPRA's determination.



Case Payment Example B: Discharge Notice issued the day of discharge.
Discharge notice issued Monday – 4/1/01, day of discharge. Patient requests discharge appeal by noon Tuesday – 4/2/01 and hospital send medical record for same day delivery to IPRA. IPRA issues determination in favor of hospital and liability begins at noon of the day following IPRA's determination.



DOH Response: *Please see DOH response to Question #4 for a review of the IPRA timeframe requirements. The above two examples demonstrate how the appeals process may operate, however the final date of patient liability is dependent in part on when the patient initiates the appeal process. For example, in example B a different scenario would be if the patient initiated the appeal*

on the day they received the notice (4/1/01) and IPRO received the record that day (4/1/01), issued a decision on Tuesday (4/2/01), the patient would then be liable from 12 noon on Wednesday (4/3/01).

3. **GNYHA Question:** When a discharge appeal occurs over a weekend there is no mechanism for the appeal to be attended before the next working day. As an example, if a patient receives a discharge notice on Friday, their discharge appeal is delayed until Monday. What on-call arrangements can be made so that IPRA staff can process discharge appeals timely and hospitals can prevent the financial impact of these additional inpatient days?

DOH Response: *There are no plans to conduct these reviews on weekends at this time. IPRO the Medicaid IPRA review agent receives about one call per week for a weekend review. Appeals received on Friday are expedited where possible. DOH will monitor appeals activity over the next 12 months to determine if any changes are warranted.*

4. **GNYHA Question:** DOH could not have anticipated that hospital LOS would be dramatically reduced over time when it issued its 1987 Memorandum requiring hospitals to issue discharge notices 24 hours in advance of discharge. Given that a significant percentage of hospital admissions are short stays of 1 and 2 days and it is not feasible to be able to predict discharge 24 hours in advance in many circumstances, what modifications to the existing requirement can be made to reflect the changes in hospital LOS? That is, are there adjustments(s) in timing (in which the notice is issued) that a hospital can make in its processes for issuing the discharge notice 24 hours in advance?

DOH Response: *Attached is the December 30, 1987 Department of Health letter regarding the timing of the discharge notice. Also attached is a series of examples that addresses this topic. In summary, the notice is to be provided prior to noon the day before the anticipated discharge. In those instances where a notice is provided by noon on the actual day of discharge, the patient must be advised that he or she has until noon of the following day to file an appeal. It should be noted that the patient always has the right to be discharged the same day if they do not choose to appeal the discharge. They also may initiate the appeal when they get the notice and do not have to wait until noon the next day.*

5. **GNYHA Question:** What review criteria do Department of Health surveyors follow in evaluating a hospital's procedure for issuing the discharge notice?

DOH Response: *The area office should look to see that the patient got the notice and that it was given out prior to noon on the day before the anticipated discharge or up to the time of discharge in those instances where the discharge cannot be anticipated and if those patients are advised of their right to appeal up to noon of the next day. If a hospital has an issue with a Department of Health citation, please contact:*

Mr. Gerald J. Stenson
Principal Medical Care Administrator
Bureau of Hospital Services, OHSM
New York State Department of Health
Hedley Park Place, Suite 303
433 River Street
Troy, New York 12180-2299
E-mail address: gjs10@health.state.ny.us

6. **GNYHA Question:** The 405 regulations contain two separate discharge notices depending on the mode of reimbursement, i.e. case payment and per diem reimbursement. Please explain the differences in the notices and how the financial protections afforded may be different for:
- a) self pay patients
 - b) Medicaid patients
 - c) Commercially insured patients

DOH Response: *The discharge review regulations require that all patients with the exception of Medicare patients subject to the Federal QIO provisions and Psychiatric patients subject to the Mental Hygiene Law have an opportunity to appeal their discharge from an acute care facility. However, the regulations do differentiate between case payment and non-case payment patients with respect to their financial liability during the appeal review process. Patients covered under the case payment system are not liable for payment during the appeal review process provided that they file their appeal within the prescribed timeframes. Patients not covered under the case payment system may still request a discharge review but can be charged for hospital services during the review process depending on their hospital coverage. The provision is specifically noted on the first page of the discharge notice forms (For copies of letters see the Department of Health website for the Title 10 regulation 405.9 section G <http://www.health.state.ny.us/nysdoh/phforum/nycrr10.htm>) Although not specifically required, third party payors (including commercial carriers) for non-case payment patients may assume the liability for the appeal days. Medicaid will pay for such days for Medicaid patients in exempt units and for Medicaid patients on ALC status assuming the ALC days are otherwise reimbursable.*

7. **GNYHA Question:** There is a third notice (seemingly issued by the IPRA when the provider requests a review) stating, "Attending physician **agrees**/Review agent agrees" in the header. Typically, the provider would request the review when the attending physician **disagrees**. Can you please clarify?

DOH Response: *The letter in the regulation is incorrect, it should read, "disagrees" and we are looking into a correction. This is the letter the hospital gives out in that circumstance when the physician disagrees. Before the hospital issues the letter they are required to get an IPRA decision that they (the IPRA) agree with the hospital.*

8. **GNYHA Question:** If a patient appeals his/her discharge and the IPRA's determination is *not* in favor of the patient, can the patient re-appeal this decision? If so, what financial protections are afforded the patient during the second level appeal?

DOH Response: *The regulations do not provide for an appeal of the IPRA decision.*

9. **GNYHA Question:** Is there a recently updated Independent Professional Review Agent (IPRA) list?

DOH Response: *The recently revised (4/13/06) list is enclosed.*



STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York

David Axelrod, M.D.
Commissioner

OFFICE OF HEALTH
SYSTEMS MANAGEMENT

Raymond Sweetney
Director

Brian Hendricks
Executive Deputy Director

December 30, 1987

Dear Hospital Administrator:

The purpose of this letter is to provide further clarification on the requirements of the discharge review regulations and the recently issued Health Department Memorandum. Recognizing the January 1, 1988 effective date for implementation of this program, we are using this letter as a means of providing prompt notification of Department policy with respect to some of the details of the new requirements.

1. Discharge Notice Timing

The required discharge notice must be provided to the patient prior to noon on the day before the anticipated discharge. This should enable patients to have twenty-four hours to decide if they want to exercise their appeal rights. For example, if a patient is to be discharged on noon Wednesday, the discharge notice must be given no later than noon on Tuesday. It would not be permissible to give the notice earlier than Tuesday. The only exception to this policy, as specified in the Health Department Memorandum, is if the patient's appointed personal representative is not available until later in the day the notice is provided.

2. Medicaid Independent Professional Review Agent

The Medicaid Independent Professional Review Agent for downstate (New York City, Nassau and Suffolk counties) will be the Island Peer Review Organization. For the remainder of the State, the Network Design Group will serve as the Medicaid Independent Professional Review Agent. It is our understanding that the both organizations have contacted the hospitals in their respective areas regarding program implementation.

3. Medical Record Submission

Concern has been expressed regarding hospitals' ability to provide the patient's medical record to the Independent Professional Review Agent by the close of business of the

Hospital Administrator

December 30,
Pa.

first working day following the date the patient received the discharge notice, particularly in those cases where there is a considerable distance between the hospital and the Independent Professional Review Agent. As an interim measure to deal with this situation, hospitals will be permitted to send medical records to Independent Professional Review Agents via overnight mail on the day in which an appeal is filed. The Department will monitor the implementation of this provision to determine if further modifications are required. Please recognize that it is usually in the hospital's interest to have any appeal decided promptly, and, therefore, hospitals are encouraged to work with the Independent Professional Review Agents to make suitable arrangements for expeditious record transfers. In this regard, both Medicaid Independent Professional Review Agents have agreed to make every possible effort to make appeal decisions on the day the medical record is received, provided receipt of the record is by 11:00 a.m.

4. ALC Patients

The pending legislation and current regulations do not provide any exemptions or exceptions to the discharge review requirements for ALC patients. Therefore, an ALC patient must be given a discharge notice with the opportunity to appeal the day prior to a scheduled discharge to a residential health care facility or other placement.

5. Multi-payor Review

In cases where a patient has multi-payor involvement in the reimbursement of his/her case, the Independent Professional Review Agent for the primary payor will have the appeal review responsibility.

As necessary, we will be providing further clarifications on this program using this format. If you have questions about individual Independent Professional Review Agents, we would request that you contact them directly.

Thank you for your cooperation.

Sincerely,



Wayne M. Osten
Director
Bureau of Hospital Services

cc: Mr. Sweeney
Mr. Hartman
Ms. Kelly

TIMING OF DISCHARGE NOTICE – FIVE EXAMPLES

Example 1

- Patient scheduled for discharge on Wednesday at noon, the discharge plan and notice should be issued to patient by noon on Tuesday.

Example 2

- Patient scheduled for discharge on Wednesday at noon and the patient's appointed personal representative will not be available until Tuesday evening, the discharge plan and notice could be given at that time and the discharge could occur as planned unless an appeal is requested.

Example 3

- Based on physician rounds on Tuesday evening, it is determined that the patient is ready for discharge, while the discharge plan and notice could be issued at that time, the patient could remain in the hospital until noon on Thursday during which time an appeal could be required or the patient could decide to go home.

Example 4

- A discharge plan and notice are issued to the patient on Friday morning, the patient could remain in the hospital until Monday noon unless the hospital and IPRA have made weekend review arrangements.

Example 5

- Based on physician rounds on Tuesday morning, it is determined that the patient is ready for discharge and the discharge plan and notice are issued at that time. The patient could be discharged the same day if the patient decides to go home and not exercise his/her rights. This would be considered a discharge not a leave against medical advice.