Q225: Submission and Investigation of Grievances

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As part of the Bureau of Facility Standards ASC Quality Improvement Initiative, ASC QAPI regulations (Q80 – Q84) were applied to statewide quality indicator data. The quality indicator data, which included complaints alleging non-compliance with ASC regulatory requirements, provider questions regarding regulatory requirements, and citation data from 2009 through 2013, was reviewed and analyzed. Based on that analysis, it was determined additional training regarding the Patient Rights standard at Q225 for the submission and investigation of grievances would be beneficial in improving regulatory understanding and compliance. For additional information regarding the State Agency's quality indicator data and analysis, please refer to the Applied QAPI: Statewide ASC Quality Improvement Initiative training on the BFS web site.

 $\underline{http://healthandwelfare.idaho.gov/Portals/0/Medical/LicensingCertification/ASCAppli}\\ \underline{edQAPI\%20.pdf}$

Learning Goals

- Identify the 1 specific standard level regulation within Patient Rights which frequently results in citations and why it is being cited.
- Describe how citation information can be incorporated into an ASC QAPI program.
- Describe the QAPI and Governing Body implications for repeat citations.

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It should be noted from 2009 through March 2013, Q220 was the Condition for Coverage (CfC) for Patient Rights. However, the regulations were updated and now Q219 is the CfC for Patient Rights and Q220 is specifically related to the posting of patient rights information and Q222 is related to what must be included in the posted rights. Appendix L was updated and became effective on June 7, 2013. Therefore, the 2013 data for Q220 is not comparable to the Q220 data from 2009 – 2012.

Also please be aware Appendix L was updated on August 30, 2013 and again on January 1, 2014. Please ensure you are using the most recent version of Appendix L, which can be found here:

http://cms.hhs.gov/Regulations-and-Guidance/Guidance/Manuals/downloads//som107ap_l_ambulatory.pdf

Appendix L

The regulation at Q219, Condition for Coverage (CfC)
 Patient Rights states "The ASC must inform the patient or
 the patient's representative or surrogate of the patient's
 rights and must protect and promote the exercise of
 these rights, as set forth in this section. The ASC must
 also post the written notice of patient rights in a place or
 places within the ASC likely to be noticed by patients
 waiting for treatment or by the patient's representative
 or surrogate, if applicable."

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The CfC of Patient Rights (Q219) is comprised of 14 standards (Q220 – Q234). For additional information related to basic survey processes, including information related to CfCs and standards, please refer to the ASC "Processes" PowerPoint training on the BFS website.

http://www.healthandwelfare.idaho.gov/Portals/0/Medical/LicensingCertification/ASC SurveyProcessPPT.pdf

The CfC of Patient Rights is wide reaching and includes all areas of patient rights as stated in the interpretive guidance:

The ASC must inform each of its patients, or the patient's representative or surrogate in the case of minor patients or other situations where there is a designated representative for the patient, of their rights as an ASC patient. Further, all of the ASC's policies, procedures and actions must be consistent with the protection of the patients' rights articulated in this Condition. Further, the ASC must actively promote the patient's exercise of their rights.

"In addition, the ASC must ensure that the written notice of patient rights is posted in one or more places where it is likely to be seen by patients waiting for treatment, or the patient's representative or surrogate, if applicable. Such areas include, but are not limited to, waiting rooms or pre-operative preparation areas where patients are awaiting care. Notices must be posted in at least one area. Whether the ASC must post more than one notice depends on the size and physical layout of the areas where notices are posted. The determining factor is whether the notice(s) are posted in a manner that all patients (or their representatives or surrogates, as applicable) are likely to see the notice.

The patient's representative or surrogate is an individual designated by the patient, in accordance with applicable State law, to make health care decisions on behalf of the individual or to otherwise assist the patient during his/her stay in the ASC. Designation may be in writing, as in an advance directive or medical power of attorney, or may be oral (verbal). Written designation may occur before the patient presents to the ASC, or during the ASC registration process. Oral designation may take place at any time during the patient's visit in the ASC. The patient's representative or surrogate includes, but is not limited to, an individual who could be a family member or friend who accompanies the patient. Depending on the designation the patient has made, the patient's representative or surrogate may make all health care decisions for the patient during his/her ASC visit, or may act in a more limited role, for example, as a liaison between the patient and the ASC to help the patient communicate, understand, remember, and cope with the interactions that take place during the visit, and explain any instructions to the patient that are delivered by the ASC staff. If a patient is unable to fully communicate directly with the ASC staff, then the ASC may give patient rights information to the patient's representative or surrogate."

Appendix L

- Q225: Submission and investigation of grievances:

 The ASC must establish a grievance procedure for documenting the existence, submission, investigation, and disposition of a patient's written or verbal grievance to the ASC. The following criteria must be met:
 - (1) The grievance process must specify timeframes for review of the grievance and the provisions of a response..."

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When quality indicator data was analyzed, it was determined that from 2009 to 2012 the CfC for Patient Rights was being cited for a variety of reasons (e.g. varying standards being cited within that CfC). However, based on additional analysis, there is a single patient rights standard (Q225) which has consistently been cited and continues to be cited even though non-compliance at the Condition level has decreased.

The regulations at Q225 includes all components of submission and investigation of grievances. In addition to the regulatory language included on this and the next slide, CMS has also provided interpretive guidance at Q225 which states:

"What is a grievance?

A 'patient grievance' is a formal or informal written or verbal complaint that is made to the ASC by a patient or a patient's representative or surrogate, regarding a patient's care (when such complaint is not resolved at the time of the complaint by the staff present), abuse, neglect, or ASC compliance issues.

o A complaint from someone other than a patient or a patient's representative or surrogate is not a grievance.

o A complaint that is presented to the ASC's staff and resolved at that time is not considered a grievance; the grievance process requirements do not apply to such complaints. For example, a complaint that discharge instructions are unclear may be resolved relatively quickly before the patient is discharged, and would not usually be considered a 'grievance.'

If a patient care complaint cannot be resolved at the time of the complaint by the staff present, is postponed for later resolution, is referred to other staff for later resolution, requires an investigation, and/or requires additional actions for resolution, the complaint is then considered a grievance for purposes of these requirements.

Billing issues are not usually considered grievances for the purposes of this grievance requirement.

Although complaints may be both written and verbal, a written complaint is always considered a grievance. This includes written complaints from a current patient, a released/discharged patient, or a patient's representative or surrogate regarding the patient care provided, abuse or neglect, or the ASC's compliance with the CfCs. For the purposes of this requirement, an email or fax is considered written.

Information obtained from patient satisfaction surveys conducted by the ASC usually is not considered a grievance. However, if an identified patient writes or attaches a written complaint on the survey and requests resolution, the complaint must be treated as a grievance. If an identified patient writes or attaches a complaint to the survey, but does not request resolution, the ASC should treat this as a grievance if the ASC would usually treat such a complaint as a grievance.

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

Whenever the patient or the patient's representative or surrogate requests that his or her complaint be handled as a formal complaint or grievance, or when the patient requests a response from the ASC, the complaint is considered a grievance and all the grievance requirements apply."

Appendix L

- Q225: Submission and investigation of grievances (continued):
 - (2) The ASC, in responding to the grievance, must investigate all grievances made by a patient, the patient's representative, or the patient's surrogate regarding treatment or care that is (or fails to be) furnished.
 - (3) The ASC must document how the grievance was addressed, as well as provide the patient, the patient's representative, or the patient's surrogate with written notice of its decision. The decision must contain the name of an ASC contact person, the steps taken to investigate the grievance, the result of the grievance process and the date the grievance process was completed.

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The interpretive guidance at Q225 further states:

"Grievance Process

The ASC must have an established procedure in place for documenting the existence, submission, investigation, and disposition of a grievance.

As part of its obligation to notify patients of their rights, the ASC must inform the patient and/or the patient's representative or surrogate of the ASC's grievance process, including how to file a grievance.

All grievances submitted to any ASC staff member, whether verbally or in writing, must be reported by the staff to an ASC official who has authority to address grievances. The ASC's grievance policies and procedures must identify the person(s) in the ASC who have the authority to respond to grievances. The ASC is expected to educate staff on their obligation to report all grievances, including whom they should report the grievance to.

All grievances must be investigated, but the regulation stresses this in particular for grievances related to treatment or care that the ASC provided or allegedly failed to

provide. In its investigation the ASC should not only respond to the substance of the grievance, but should also use the grievance to determine if there are systemic problems indicated by the grievance that require resolution. An ASC would be well-advised to integrate its grievance process into its overall quality assessment and performance improvement program.

The ASC's grievance process must include a timeframe for the completion of the ASC's review of the grievance allegations, as well as for the ASC to provide a response to the person filing the grievance. The timeframe must be reasonable, i.e., allowing the ASC sufficient but not excessive time to conduct its review and issue its response. CMS does not mandate a particular timeframe. The application of the ASC's timeframe begins with the date of the receipt of the grievance by the ASC.

The ASC must document for each grievance how it was addressed. The ASC must also notify the patient or the patient's representative or surrogate, in writing, of the ASC's decision regarding each grievance.

The ASC may use additional methods to resolve a grievance, such as meeting with the patient's family. There are no restrictions on the ASC's use of additional effective methods to handle a patient's grievance. However, in all cases, the ASC must provide a written notice of its decision on each patient's grievance. The written notice must include the name of an ASC contact person, the steps the ASC took to investigate the grievance, the results of the grievance process, and the date the process was completed.

When a patient communicates a grievance to the ASC via email, the ASC may respond to the patient via email, pursuant to the ASC's policy. (Some ASC [sic] may have policies prohibiting communication to patients via email.) If the patient requests a response via email, the ASC may respond via email. If the email response contains the name of an ASC contact person, the steps taken to investigate the grievance, the results of the grievance process, and the date the process was completed, the email meets the requirements for a written response.

In its written response to any grievance, the ASC is not required to include statements that could be used in a legal action against the ASC, but the ASC should provide adequate information to address the specific grievance. A form letter with generic statements about grievance process steps and results is not acceptable."

Performance Improvement Projects						
	2009	2010	2011	2012	2013	Totals
No grievance policy or procedure	0	3	2	1	2	8
Grievance policy & procedure not sufficiently developed	1	2	1	2	1.	7
Grievance policy & procedure not implemented when a grievance was received	1	0	0	0	0	1

The standard at Q225 covers all areas of the grievance process. However, when quality indicator data was further analyzed, it was determined that of all the areas related to the submission and investigations of grievances, there are 2 specific areas that are currently being frequently cited (as indicated on the slide).

While a lack of policy implementation has been cited, primarily citations related to Q225 involve a lack of a grievance policy or an underdeveloped grievance policy which results in grievances not being addressed in accordance with the regulatory requirements.

Number 1: No Grievance Policy & Procedure

 Q225: Submission and investigation of grievances: "The ASC must establish a grievance procedure for documenting the existence, submission, investigation, and disposition of a patient's written or verbal grievance to the ASC..."

Governing Body questions:

- Has the Governing Body defined what a grievance is?
- Has the Governing Body developed policies and procedures to address patient grievances?

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The regulation at Q225 requires the ASC to have procedures for addressing grievances, as stated on the slide. Additionally, the interpretive guidance at Q225 states "The ASC must have an established procedure in place for documenting the existence, submission, investigation, and disposition of a grievance." However, the number 1 reason Q225 is cited is due to a lack of policies and procedures.

Citations related to a lack of policy fall into 2 main categories. For the first category, the ASC accurately defines what a grievance is in accordance with the regulation and interpretive guidance at Q225. However, the ASC has failed to develop policies to address grievances.

For the second category, the ASC has failed to define what a grievance is in accordance with the regulation and interpretive guidance at Q225. This can result in multiple separate policies being developed for complaints which do not meet the regulatory requirements for grievances at Q225. For example, the facility may have policies and procedures to addresses patient complaints regarding billing concerns. However, the interpretive guidance at Q225 states "Billing issues are not usually considered grievances for the purposes of this grievance requirement." So while the ASC does have a complaint policy, it does not have a grievance policy as required by Q225.

The interpretive guidance at Q225 does include CMS direction regarding what constitutes a grievance (refer to the notes section of slide 4 for complete information). Regardless of the ASC's naming conventions (e.g. complaint vs. grievance), if a patient concern meets the CMS definition of a grievance, then it is considered a grievance and all the grievance requirements apply.

Please be aware that during the survey process, surveyors will ask to see your grievance policies and procedures. Therefore, when reviewing your patient rights information, please ensure policies and procedures have been developed to address patient grievances per the CMS definition found in the Q225 interpretive guidance.

Number 2: Underdeveloped Grievance Policy & Procedure

- Q225: Submission and investigation of grievances:
 - "(1) The grievance process must specify timeframes for review of the grievance and the provisions of a response.
 - (2) The ASC, in responding to the grievance, must investigate all grievances made by a patient, the patient's representative, or the patient's surrogate regarding treatment or care that is (or fails to be) furnished.
 - (3) The ASC must document how the grievance was addressed, as well as provide the patient, the patient's representative, or the patient's surrogate with written notice of its decision. The decision must contain the name of an ASC contact person, the steps taken to investigate the grievance, the result of the grievance process and the date the grievance process was completed."

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The number 2 reason for Q225 citations is underdeveloped grievance policies and procedures. Underdeveloped policies do not include all requirements at Q225. While ASCs have been cited for a lack of specified timeframes (number 1 on the slide), typically underdeveloped policies do not include all the components of written responses to the patient (number 3 on the slide).

Number 2: Underdeveloped Grievance Policy & Procedure

Governing Body questions:

- Has the Governing Body ensured that all components required at Q225 have been incorporated into the grievance policy (e.g. timeframes for review, provisions for a written response, etc.)?
- Do the provisions for a written response include all necessary information (i.e. the name of an ASC contact person, the steps taken to investigate the grievance, the result of the grievance process and the date the grievance process was completed)?

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Again, please be aware that during the survey process, surveyors will ask to see your grievance policies and procedures. Therefore, when reviewing your patient rights information, please ensure your policies and procedures address all components of the Q225 regulations.

Number 3: Lack of Policy & Procedure Implementation

• Q225:

"The ASC must establish a grievance procedure for documenting the existence, submission, investigation, and disposition of a patient's written or verbal grievance to the ASC..."

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The number 3 reason for Q225 citations is the actual implementation of a sufficiently developed policy.

Number 3: Lack of Policy & Procedure Implementation

Governing Body questions:

- How does your ASC track grievances? Is this addressed in the grievance policy? Is the policy being implemented?
- How does your ASC investigate grievances? Is this addressed in the grievance policy? Is the policy being implemented?
- How does your ASC document the disposition of grievances? Is this addressed in the grievance policy? Is the policy being implemented?

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Please be aware that during the survey process, surveyors will ask to see your grievance policies and procedures as well as documentation of the existence, submission, investigation, and disposition of a patient's written or verbal grievance to the ASC, in accordance with the Q225 regulation. Therefore, when reviewing your patient rights information, please ensure your policies and procedures are not only sufficiently developed but are also being implemented.

QAPI

- Has quality indicator data related to grievances been collected and analyzed as part of your ASC's QAPI program?
- Did the QAPI data analysis involve a review of the ASC's policy and procedure to ensure it was sufficiently developed and appropriately implemented?
- As part of the QAPI system, was each grievance the ASC received analyzed for potential areas of improvement?

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When evaluating your ASC's systems to ensure patient rights, please keep in mind the QAPI regulations Q80 through Q84. As stated in the interpretive guidance at Q80, the ASC is required to have "...an effective, ongoing system in place for identifying problematic events, policies, or practices and taking actions to remedy them, and then following up on these remedial actions to determine if they were effective in improving performance and quality..."

Plans of Correction & QAPI

- Plans of Correction require ASCs to include information regarding how the deficient practice corrections will be monitored and tracked to ensure the PoC is effective in bringing the ASC into compliance, and that the ASC remains in compliance with the regulatory requirements.
- Repeat deficiencies.

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Whenever you are cited for a deficient practice, you are required to submit a Plan of Correction (PoC). For additional comprehensive information related to PoCs, please refer to the PowerPoint presentation Understanding the 2567 and Writing Acceptable Plans of Correction For Ambulatory Surgical Centers on the BFS website.

http://healthandwelfare.idaho.gov/Portals/0/Medical/LicensingCertification/ASC2567_AcceptPoCs.pdf

Part of the PoC requirements include monitoring and tracking to ensure the PoC is effective in bringing the ASC into compliance, and that the ASC remains in compliance with the regulatory requirements. Throughout this presentation, it has been demonstrated how each deficient practice should be assessed and monitored through the ASC's QAPI program.

Please be aware that surveyors review past survey reports and your PoC prior to conducting the next survey. When repeat deficiencies are identified (deficiencies which were cited during the last survey and are being cited again during the current survey) it calls into question the ASC's QAPI program and the Governing Body's ability to achieve and sustain compliance over time. Repeated deficiencies can result in Condition level findings at both QAPI (Q80) and Governing Body (Q40).

QAPI & Governing Body

 Comprehensive QAPI systems, in accordance with regulations Q80 – Q84, allow the facility to identify areas in need of improvement (i.e. deficient practices) prior to a survey being conducted.

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While this presentation focused on how deficient practices with Q225 could be addressed within an ASCs QAPI program, it should be noted a comprehensive, well designed, implemented and monitored QAPI program allows the facility to identify areas in need of improvement prior to a survey occurring.

Ultimately this is the responsibility of the Governing Body. The regulation and interpretive guidance at Q84 states "The governing body must ensure that the QAPI program-

- (1) Is defined, implemented, and maintained by the ASC.
- (2) Addresses the ASC's priorities and that all improvements are evaluated for effectiveness.
- (3) Specifies data collection methods, frequency, and details.
- (4) Clearly establishes its expectations for safety.
- (5) Adequately allocates sufficient staff, time, information systems and training to implement the QAPI program.

An ongoing, successful QAPI program requires the support and direction of the ASC's leadership. This regulation makes clear CMS' expectations that the ASC's governing body must assume responsibility for all aspects of the design and and [sic] implementation of every phase of the QAPI program..."

Please ensure your QAPI program is implemented and maintained not only to meet the minimum regulatory requirements, but to ensure your patients are receiving the highest quality of care possible.

Questions

 Please submit your questions, comments or suggestions to fsb@dhw.idaho.gov

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Should you have questions, comments or suggestions regarding this or other aspects of the ASC survey process, please submit them to the Facility Standards email.