

# YOUR RIGHTS, YOUR CHOICE

## What Medicare Beneficiaries Need to Know About How Some Hospitals Try to Violate Your Right to Patient Choice



### The Basics

After a hospital stay, many patients require continuing care from home care, assisted living, or other Medicare providers.

In recent years, some hospitals have illegally steered or coerced their patients out of using the providers of the patients' choice in favor of those with whom the hospital has a financial interest. Examples include claiming that some providers "aren't allowed" by the hospital or implying that failure to use a provider may result in a physician dropping the patient.

These and similar practices violate numerous Medicare regulations that **explicitly guarantee Medicare beneficiaries the right to obtain services from any institution, agency, or person that is a qualified Medicare provider.**

### What the Law Says

Medicare requires<sup>†</sup> all hospitals to:

- Inform patients of their right to choose a post-hospitalization provider, such as a home health agency or nursing home;
- Disclose any agency that it has a financial interest in; and
- Provide the patient with a list from which the patient may choose that provider.

Any hospital that fails to explain this completely, or that otherwise seeks to limit patient choice in providers, risks sanction and losing its Medicare billing privileges.

### Confirmed by the Affordable Care Act

These regulations also apply to the new Accountable Care Organizations piloted to save Medicare funding through alternative payment arrangements. As stated<sup>‡</sup> by Medicare:

*"A beneficiary aligned to an ACO maintains freedom to visit any provider accepting Medicare, just as all Medicare beneficiaries do. These beneficiaries do not need a referral to see a specialist outside the ACO. Unlike an HMO or a Medicare Advantage plan, a beneficiary aligned to an ACO is free to see any healthcare provider accepting Medicare at any time."*

### How to Report Fraud

**To report violations of patient choice:**

1. Centers for Medicare & Medicaid Svcs  
Attn: Daniel Kristola  
John F Kennedy Federal Building  
Boston, MA 02203-003  
[daniel.kristola@cms.hhs.gov](mailto:daniel.kristola@cms.hhs.gov)  
Ph: (617) 565-4487
2. Mass. Dept. of Public Health  
Pffice of Survey & Certification  
99 Chauncy St.  
Boston, MA 02111  
Ph: (617) 753-8222

**To report fraud or kickbacks:**

3. US Dept. of Health & Human Services  
Ph: (800) HHS-TIPS, (800) 447-8477  
Fx: (800) 223-2164 (10 pages max)  
[HHSTips@oig.hhs.gov](mailto:HHSTips@oig.hhs.gov)

### About the Alliance

The Home Care Alliance of Massachusetts is a non-profit trade association that promotes home care as an integral part of the health care delivery system. Founded in 1969, it represents 200 home care agencies from all corners of Massachusetts. To learn more about the Alliance and its members visit [www.thinkhomecare.org](http://www.thinkhomecare.org).

<sup>†</sup> See 42 C.F.R. § 482.43(c)(3),(7)

<sup>‡</sup> [www.innovation.cms.gov/Files/x/Pioneer-ACO-Model-Frequently-Asked-Questions-doc.pdf](http://www.innovation.cms.gov/Files/x/Pioneer-ACO-Model-Frequently-Asked-Questions-doc.pdf)

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