

§ 480.105

fees may not exceed the amount necessary to recover the cost to the QIO for providing the information.

(d) *Format for disclosure of public information.* A QIO is required to disclose public information (§ 480.120(a)(6)) only in the form in which it is acquired by the QIO or in the form in which it is maintained for QIO use.

(e) *Medicare provider number.* A QIO must include the provider identification number assigned by the Medicare program on information that CMS requests.

[50 FR 15359, Apr. 17, 1985. Redesignated at 64 FR 66279, Nov. 24, 1999, as amended at 69 FR 49267, Aug. 11, 2004]

§ 480.105 Notice of disclosures made by a QIO.

(a) *Notification of the disclosure of non-confidential information.* Except as permitted under § 480.106, at least 30 calendar days before disclosure of nonconfidential information, the QIO must notify an identified institution of its intent to disclose information about the institution (other than reports routinely submitted to CMS or Medicare fiscal intermediaries, or to or from QIO subcontractors, or to or from the institution) and provide the institution with a copy of the information. The institution may submit comments to the QIO that must be attached to the information disclosed if received before disclosure, or forwarded separately if received after disclosure.

(b) *Notification of the disclosure of confidential information.* (1) A QIO must notify the practitioner who has treated a patient, of a request for disclosure to the patient or patient representative in accordance with the requirements and exceptions to the requirements for disclosure specified under § 480.132.

(2) A QIO must notify a practitioner or institution of the QIO's intent to disclose information on the practitioner or institution to an investigative or licensing agency (§§ 480.137 and 480.138) except for cases specified in § 480.106 involving fraud or abuse or imminent danger to individuals or the public health. The practitioner or institution must be notified and provided a copy of the information to be disclosed at least 30 calendar days before the QIO discloses the identifying infor-

42 CFR Ch. IV (10-1-04 Edition)

mation. The QIO must forward with the information any comments submitted by the practitioner or institution in response to the QIO notice if received before disclosure, or forwarded separately if received after disclosure.

[50 FR 15359, Apr. 17, 1985; 50 FR 41886, Oct. 16, 1985. Redesignated at 64 FR 66279, Nov. 24, 1999, as amended at 69 FR 49267, Aug. 11, 2004]

§ 480.106 Exceptions to QIO notice requirements.

(a) *Imminent danger to individuals or public health.* When the QIO determines that requested information is necessary to protect against an imminent danger to individuals or the public health, the notification required in § 480.105 may be sent simultaneously with the disclosure.

(b) *Fraud or Abuse.* The notification requirement in § 480.105 does not apply if—

(1) The disclosure is made in an investigation of fraud or abuse by the Office of the Inspector General or the General Accounting Office; or

(2) The disclosure is made in an investigation of fraud or abuse by any other Federal or State fraud or abuse agency and the investigative agency specifies in writing that the information is related to a potentially prosecutable criminal offense.

(c) *Other.* The notification requirements in § 480.105(a) and (b)(2) do not apply if:

(1) The institution or practitioner has requested, in writing, that the QIO make the disclosure;

(2) The institution or practitioner has provided, in writing, consent for the disclosure; or

(3) The information is public information as defined in § 480.101(b) and specified under § 480.120.

[50 FR 15359, Apr. 17, 1985. Redesignated at 64 FR 66279, Nov. 24, 1999, as amended at 69 FR 49266, 49267, Aug. 11, 2004]

§ 480.107 Limitations on redisclosure.

Persons or organizations that obtain confidential QIO information must not further disclose the information to any other person or organization except—

(a) As directed by the QIO to carry out a disclosure permitted or required under a particular provision of this part;

(b) As directed by CMS to carry out specific responsibilities of the Secretary under the Act;

(c) As necessary for CMS to carry out its responsibilities for appeals under section 1155 of the Act or for CMS to process sanctions under section 1156 of the Act;

(d) If the health care services furnished to an individual patient are reimbursed from more than one source, these sources of reimbursement may exchange confidential information as necessary for the payment of claims;

(e) If the information is acquired by the QIO from another source and the receiver of the information is authorized under its own authorities to acquire the information directly from the source, the receiver may disclose the information in accordance with the source's redisclosure rules;

(f) As necessary for the General Accounting Office to carry out its statutory responsibilities;

(g) Information pertaining to a patient or practitioner may be disclosed by that individual provided it does not identify any other patient or practitioner;

(h) An institution may disclose information pertaining to itself provided it does not identify an individual patient or practitioner;

(i) Governmental fraud or abuse agencies and State licensing or certification agencies recognized by CMS may disclose information as necessary in a judicial, administrative or other formal legal proceeding resulting from an investigation conducted by the agency;

(j) State and local public health officials to carry out their responsibilities, as necessary, to protect against a substantial risk to the public health; or

(k) As necessary for the Office of the Inspector General to carry out its statutory responsibilities.

[50 FR 15359, Apr. 17, 1985; 50 FR 41886, Oct. 16, 1985. Redesignated at 64 FR 66279, Nov. 24, 1999]

§ 480.108 Penalties for unauthorized disclosure.

A person who discloses information not authorized under Title XI Part B of the Act or the regulations of this part will, upon conviction, be fined no more

than \$1,000, or be imprisoned for no more than six months, or both, and will pay the costs of prosecution.

§ 480.109 Applicability of other statutes and regulations.

The provisions of 42 U.S.C. 290dd-3 and 290ee-3 governing confidentiality of alcohol and drug abuse patients' records, and the implementing regulations at 42 CFR part 2, are applicable to QIO information.

[50 FR 15359, Apr. 17, 1985; 50 FR 41887, Oct. 16, 1985. Redesignated at 64 FR 66279, Nov. 24, 1999]

QIO ACCESS TO INFORMATION

§ 480.111 QIO access to records and information of institutions and practitioners.

(a) A QIO is authorized to have access to and obtain records and information pertinent to the health care services furnished to Medicare patients, held by any institution or practitioner in the QIO area. The QIO may require the institution or practitioner to provide copies of such records or information to the QIO.

(b) A QIO may obtain non-Medicare patient records relating to review performed under a non-Medicare QIO contract if authorized by those patients in accordance with State law.

(c) In accordance with its quality review responsibilities under the Act, a QIO may have access to and obtain information from, the records of non-Medicare patients if authorized by the institution or practitioner.

(d) A QIO may reimburse for requested information at the rate of \$.10 per page for photocopying plus first class postage. The photocopying amount includes the cost of labor, supplies, equipment, and overhead.

[50 FR 15359, Apr. 17, 1985; 50 FR 41887, Oct. 16, 1985. Redesignated at 64 FR 66279, Nov. 24, 1999, as amended at 65 FR 83154, Dec. 29, 2000]

§ 480.112 QIO access to records and information of intermediaries and carriers.

A QIO is authorized to have access to and require copies of Medicare records or information held by intermediaries or carriers if the QIO determines that