Quality Improvement Organization Manual

Chapter 15 - Performance Evaluation

TABLE OF CONTENTS (Rev. 1, 05-23-03)

15100 - Background - (Rev. 1, 05-23-03)

The Omnibus Budget Reconciliation Act of 1987 amended §1153 of the Social Security Act (the Act) by adding subsection (h)(2) that requires the Secretary to publish in the Federal Register (FR) the general criteria and standards used for evaluating the performance of QIO contract obligations and to provide an opportunity for public comment with respect to such criteria and standards. A 60-day comment period is provided.

15110 - Provisions Of The Notice - (Rev. 1, 05-23-03)

The FR notice contains a brief legislative history of the QIO program and the statutory requirement for publication. It presents a description of the CMS process for measuring QIO performance and specifically solicits comments on the evaluation criteria. The notice also addresses each of the major areas of the Statement of Work (SOW) and specifies which contract requirements are considered in evaluating QIO performance.

15120 - Uses Of Evaluation Criteria - (Rev. 1, 05-23-03)

CMS routinely uses evaluation criteria in a variety of ways designed to formally appraise and monitor QIO performance and capability. Evaluation criteria are also used to determine whether or not a contract should be renewed on a non-competitive basis. QIO contractor performance monitoring provisions are included in each contract as part of the negotiated agreement. Criteria and standards for evaluating performance common to all contracts are developed based on the SOW. As the SOW is changed, its evaluation criteria and standards are updated, as necessary, to coincide with the SOW requirements.

Evaluation criteria are used in the following ways to monitor and assess contractor performance:

- CMS Regional Offices (ROs), which are responsible for the daily oversight of QIO operations, use the criteria to:
    - Monitor QIO performance;
    - Identify deficiencies in performance; and
    - Request and evaluate corrective action plans to eliminate deficiencies.
- On the basis of the performance assessment findings, CMS determines whether a QIO contract should be renewed non-competitively or awarded through competitive bidding. The performance assessment protocol is consistent with the

evaluation criteria and standards, and within the requirements of your contract. Performance is one factor in determining if it is in the best interest of the government to non-competitively renew contracts; and

- To determine if a QIO with a performance-based contract is eligible for a cash award.

15200 - Background - (Rev. 1, 05-23-03)

§1153(c)(2) of the Social Security Act (the Act) authorizes CMS to monitor the performance of Utilization and Quality Control Quality Improvement Organizations (QIOs) to ensure that these organizations meet all contract requirements.

§1153(h)(2) of the Act requires CMS to publish in the Federal Register (FR) the general criteria and standards used for evaluating the efficient and effective performance of QIO contract obligations and to provide the opportunity for public comment on these criteria and standards (See §15100-15120). These criteria are published whenever there are significant changes.

15210 - Purpose - (Rev. 1, 05-23-03)

An assessment of QIO performance is based on performance results, data from the management information system (Standard Data Processing System), and information collected from observation and site visits. The performance-based components of the QIO evaluation are based upon objective measurement of target indicators. For other components, the RO is responsible for performing this assessment. The combination of the factors mentioned above is designed to provide a basis for determining whether your contract should be renewed on a non-competitive basis. These results are used by CMS:

- To evaluate your overall performance;

- As a resource tool for future contract procurement decisions (e.g., whether an incumbent QIO is eligible to have its contract renewed on a non-competitive basis); and

- To nationally recognize QIOs who demonstrate the capability of developing and implementing innovative processes/approaches to make the QIO program more efficient and effective.

15220 - Timing - (Rev. 1, 05-23-03)

RO Project Officers (POs) continually monitor QIO performance throughout the contract period. As new review activities or changes are made to the contract requirements, the evaluation process is revised to reflect these changes.

15230 - Methods Of Evaluation - (Rev. 1, 05-23-03)

Substantial elements of QIO contracts are performance-based, where a QIO is assessed relative to specific performance measures established in the contract. Performance on these measures can be used to objectively make determinations about non-competitive renewals and/or be used as objective criteria in competitive procurements. Additionally, ROs assess QIO performance based on on-site visits, regularly scheduled teleconferences, data analysis, and off-site reviews of QIOs. Specifically, the on-site visit permits the RO POs and/or Scientific Officers (SOs) to have a face-to-face meeting and allow CMS an opportunity to understand all of the QIO activities within the context of their state. This process entails the evaluation of QIO project activities and data reports, interviews with QIO staff, and an examination of other pertinent records.

Ongoing monitoring will be accomplished by telephone and videoconferencing between the PO and the QIO, on-site visits and analysis of information reported in project plans, routine written reports, and review of contract deliverables.

The findings that result from on-site visits are compiled into formal summaries that describe the QIO's progress and performance. If the PO identifies major deficiencies, a Performance Improvement Plan (PIP) will be requested. In the event a QIO is unsuccessful at correcting the deficiencies contained in the PIP, CMS will consider terminating the contract. RO POs would continue to perform ongoing monitoring of other aspects of the contract. These include:

- QIO proposed information collection activities (e.g., surveys), abstracts or articles submitted to non-CMS sponsored peer reviewed publications or meetings;
- Subcontract arrangements;
- QIOs' internal quality control process;
- QIOs' case review requirements;
- Communication requirements (Web site, physician/provider outreach, annual reports, etc.);
- Requests related to quality improvement projects (including ad hoc data requests, CDAC requests, and approval of locally developed projects);
- Confidentiality requirements;

- Board membership and structure; and

- QIO resource allocation/utilization and management (and other financial information).

15400 - Background - (Rev. 1, 05-23-03)

When you fail to meet contract requirements, CMS generally requires that you submit a Performance Improvement Plan (PIP) to ensure that you will take appropriate steps to remedy contract performance deficiencies.

The role of the Project Officer (PO) in Federal contracts is to monitor your progress and make known to the Contracting Officer potential problems that threaten performance so that corrective measures may be taken. It is in the best interest of the Government that you make progress toward completing the requirements specified in your contract, adhere to contract clauses, and maintain sound financial status.

If your performance is unsatisfactory, the PO will act to correct unsatisfactory performance or to protect the Government's interest in the event of actual contract default. The actions may include:

- By letter or through a meeting, bring the particular deficiency to your attention and obtain a commitment for appropriate corrective action;

- Extend the contract schedule if you have excusable delays in performance;

- Withhold contract payments in cases where you fail to comply with delivery or reporting provisions of the contract; or

- Terminate the contract for default (all or part of the work).

Within the QIO contract, the PO is responsible for determining whether the services/activities conform to the contract requirements. In the event that work is considered unsatisfactory, the PO (and in some instances, the Contracting Officer) will typically notify the QIO of the deficiencies in writing and request an acceptable PIP (typically within 10 working days of the QIO's receipt of the request) to not only remedy the deficiency, but also to prevent its re-occurrence. The Central Office will be notified in the event of an issuance of a PIP. Once the PIP is approved, the PO monitors the QIO's progress on the corrections outlined in the PIP. Once the QIO has corrected the deficiency, the PO formally (in writing) notifies the QIO (with copy to the Contracting Officer) before closure of the PIP.

The following steps are typical:

- Identification of unsatisfactory performance via on-site visit, monitoring of reports/deliverables, or other monitoring tools.

- Formal notification of the deficiencies and request for PIP developed and signed by PO (with a copy to the Contracting Officer). If other than the QIO program requirements (e.g., Federal Acquisition Regulations (FAR) requirements, Section G and Section H requirements), the Contracting Officer may sign the formal notice.

- Formal response of acceptability to QIO. If unacceptable, the PO will notify the QIO/ESRD Steering Committee regarding next steps.

- If final PIP resolution is greater than 30 days, PO continues to monitor progress on the accepted PIP over the course of the PIP on a monthly basis.

- When QIO has successfully completed the PIP, PO formally closes the PIP and continues monitoring for sustained correction. Copies are provided to Central Office.

- If QIO is unsuccessful in completing the PIP, the PO notifies the RO DCSQ Associate Regional Administrator and Contracting Officer of the continued deficiency.

- The QIO/ESRD Steering Committee may be contacted regarding steps with this QIO.

15420 - Performance Plan Expectations - (Rev. 1, 05-23-03)

A fully acceptable PIP:

- Is responsive to all identified issues;

- Is measurable by the QIO and the RO;

- Identifies the source of the problem;

- Addresses what modifications in processes/procedures the QIO will accomplish;

- Addresses what new/additional Internal Quality Control processes/procedures the QIO will employ to monitor future performance;

- Addresses what immediate and ongoing staff training the QIO will provide to assure that corrections are sustained; and

- If the corrective action extends beyond 30 days, include a timeline with milestones delineating the QIO progress toward PIP completion with an estimated completion date.

The PO request for the PIP should clearly identify the specific deficiency in contract performance. It should:

- Specify how and when the deficiency was identified;
- Specify how the deficiency adversely affects the QIO contract performance;
- Specify the authority that requires correction (e.g., Social Security Act, Code of Federal Regulations, Statement of Work, QIO Manual);
- Specify that if the total estimated costs of the contract are increased by the correction proposed, the QIO must submit a contract modification request with the PIP;
- Allow the QIO the latitude to develop a PIP that meets the needs of the QIO; and
- Does not instruct on how to correct the deficiency (but may inform the QIO of a specific action, if required, so that the QIO can comment on its feasibility).

The PIP request must include a statement that notifies the QIO that if a fully acceptable PIP is not submitted by the QIO within 10 working days (or a negotiated alternate date) the PO may initiate a recommendation to the CMS Steering Committee and Contracting Officer to take further action. If the QIO is unsuccessful at fulfilling the activities of the PIP, the PO may also make a recommendation to the CMS Steering Committee and Contracting Officer.

When the PO requests a PIP, the information provided by the QIO may contain proprietary information. Proprietary information is defined as "information the release of which would cause substantial harm to your competitive position." The PO, in his/her PIP request, will instruct you to identify any proprietary data contained in your response.

15500 - Statutory Basis - (Rev. 1, 05-23-03)

In accordance with §1153(c)(6) of the Social Security Act (the Act), upon 90 days notice to you, the Secretary may terminate your contract prior to its expiration if it is determined that you:

- Do not substantially meet the eligibility requirements of §1152 of the Act;
- Have failed substantially to carry out the provisions of the contract; or

- Are carrying out the contract in a manner inconsistent with efficient and effective administration.

15510 - Grounds For Termination - (Rev. 1, 05-23-03)

Grounds for termination include, but are not limited to:

- Failure to maintain physician-sponsored or physician-access eligibility requirements;
- Failure to perform one or more contract tasks or subtasks;
- Failure to implement and/or maintain a data system sufficient to fulfill the requirements of the contract;
- Failure to make correct and appropriate decisions;
- Failure to meet reporting requirements;
- Failure to obtain/retain staff and resources necessary to conduct the contract;
- False reporting of activities;
- Delays in conducting reviews resulting in substantial backlogs;
- Failure to take timely corrective action to remove conflicts of interest;
- Inability or unwillingness to take CMS required corrective actions within reasonable timeframes;
- Failure to satisfy the requirements for peer reviewers;
- Failure to cooperate with CMS evaluation assessments;
- Failure to comply with the requirements of the Paperwork Reduction Act;
- Failure to meet contract implementation requirements timely;
- Failure to comply with CMS publication policy;
- Failure to comply with confidentiality requirements; and
- Failure to request CMS approval for certain activities when approval is required.

15520 - Recommendation To Initiate Termination - (Rev. 1, 05-23-03)

The RO submits a recommendation to initiate termination and a preliminary Notice of Intent to Terminate (NIT) your contract to the Contracting Officer through the Office of Clinical Standards and Quality. The recommendation explains the basis for the proposed termination action. It should include the following elements:

- The specific grounds for termination;
- Actions taken by the PO to bring you into compliance (e.g., Performance Improvement Plans (PIPs), withholding of contract payments); and
- QIO performance with respect to PIPs.

15530 - Notice Of Intent To Terminate Contract - (Rev. 1, 05-23-03)

The Contracting Officer sends you the preliminary NIT, which includes a complete list of deficiencies that justify termination. This is your formal notification of CMS's intent to terminate your contract.

In accordance with §1153(c)(6)(B) of the Act - where it is determined that the QIO has failed to substantially carry out the contract or is carrying out the contract in a manner that is inconsistent with effective and efficient administration - you are entitled to an opportunity to submit data (additional information) to be reviewed by a panel as described below.

If you choose not to submit the additional information, CMS proceeds with the termination after providing you 90 days notice.

In accordance with §1153(c)(6)(A) of the Act - where it is determined that the QIO does not substantially meet the eligibility requirements of §1152 of the Act - you are not entitled to an opportunity to submit data, interpretations of data, and other information pertinent to your performance, nor is there a review by a panel.

15540 - Termination Panel - (Rev. 1, 05-23-03)

If the decision is to continue with the termination process based on §1153(c)(6)(B), a panel is appointed by CMS in accordance with §1153(d) of the Act. The purpose of the panel is to review data, interpretations of data, and other performance-related information that you submit in response to the NIT. The panel is required to prepare and submit a report of its findings to CMS in a timely manner. CMS shall make a copy of the report available to the QIO.

15550 - Termination Decision - (Rev. 1, 05-23-03)

CMS may or may not accept the findings of the panel. After the panel has submitted its report, CMS may, with concurrence of the QIO, amend the Statement of Work (SOW) to modify the QIO's functions or otherwise change the contract. Also, CMS may elect to terminate the QIO's contract upon 90 days notice after submission of the panel's report or earlier if the QIO agrees. In accordance with §1153(f) of the Act, any determination by the Secretary to terminate a contract shall not be subject to judicial review.

From the time CMS receives the panel's report and gives the notice of intent to terminate, CMS may transfer review responsibilities of the QIO under the contract being terminated to another Utilization and Quality Control QIO, or to an intermediary or carrier having an agreement under §1816 of the Act or a contract under §1842 of the Act until CMS enters into a contract with another QIO.

15600 - Renewal/Non-renewal Procedures - (Rev. 1, 05-23-03)

One of the purposes of the evaluation process is to make determinations on whether QIOs are eligible for non-competitive contract renewals. Details of the renewal/non-renewal process can be found in the QIO contract.

15700 - Introduction - (Rev. 1, 05-23-03)

From the beginning of the contract a QIO should conduct its business in a manner that will facilitate an orderly transition, should the QIO later be replaced by a successor. Therefore, QIOs should arrange to receive mail not directly related to the QIO contract(s) at a separate location or box number. To avoid consumer, provider, or practitioner confusion, QIOs should also consider doing business as (DBA) the ___ QIO, where the blank contains the State's two-position postal abbreviation (e.g., MD). A QIO's toll-free telephone services should also be listed this way. If requested by CMS, you should allow any successor QIO to use these telephone numbers.

If you cease to perform your responsibilities under your current contract for any reason, you must:

- Turn over to another review entity or appropriate custodian, as directed by the Contracting Officer (CO) or his designated property officer, all medical records and other appropriate data;
- Turn the data over in a form usable to CMS;
- Continue to work on the cases selected for review until the end of your contract unless CMS determines that the new QIO will complete the cases already selected for review;

- Maintain a telephone hotline service as required by your contract and as directed by the Project Officer (PO) until you are notified by the CO that this activity is no longer required; and

- Provide the name of a knowledgeable person who will be available, on a daily basis, to assist CMS during the transition process.

The CO will provide you with the name and address of the individual in CMS with whom to arrange for the disposal of Government-acquired property.

15710 - Boxing Of Records - General - (Rev. 1, 05-23-03)

All materials should be organized and boxed for shipment to other entities unless otherwise instructed by CMS.

Box Medicare + Choice Organization (M+CO) work separately from fee-for-service work.

Box the materials by type of work and status of activity (e.g., works in progress should be boxed separately from medical records not yet reviewed and those where review has been completed). Label each box on the outside with a list of contents. Include an inventory list in each box and clearly indicate the type and date of the materials.

15720 - Boxing Of Review Records - (Rev. 1, 05-23-03)

The following types of review records should be identified and boxed as follows:

- "Live cases" (cases open) include:

    - Medical records, worksheets and case decision abstracts for all cases awaiting additional medical record information;

    - Medical records, worksheets and case decision abstracts for all documents awaiting review by a physician advisor;

    - Medical records, worksheets and case decision abstracts for all cases where the physician advisor has determined that further action is necessary (e.g., initial determination was made), but such action has not yet been taken (e.g., final notification has not been issued);

    - Files on quality improvement activities in process (includes provider's/practitioner's improvement plans under case review activities)

including a list of contacts that you are working with on quality improvement activities;

- Files on beneficiary complaint cases awaiting the beneficiary's response of the provider's medical records;

- Files on beneficiary immediate review requests of provider-issued notices of non-coverage awaiting receipt of the medical records;

- A listing of all quality improvement activities in place by physician, provider, etc., along with the basis for this activity;

- Case files, including medical records, for all cases with confirmed quality problems (this is not considered a "live case" unless the notification has not been sent, or is awaiting the 60-day period for a re-review request, or the case involves a matter that is being addressed under a sanction in progress). Cases awaiting the expiration of the 60-day period for a right to re-review are different from the one below where the case is pending;

- Cases pending re-review and re-consideration (after a request was received);

- Sanction cases in all stages of development, beginning with the first notice;

- Case files for all cases under evaluation for a determination to initiate sanction proceedings;

- Fraud and abuse case review referrals (by OIG, CMS, etc.) in progress;

- M+CO cases for targeted review; and

- Administrative law judge's request for case files in progress.

➢ "Old cases" (cases closed) include:

- Files pertaining to hospital adjustments (e.g., changes in DRGs);

- Quality review logs and cases;

- Documentation (including medical records in the possession of the QIO) related to cases denied within the last 6 years;

- Documentation related to cases approved where there has been an action within the last year;

- Reconsiderations and technical denials; and
- Re-review cases involving potential quality issues from CMS.

The inventory of reviews and medical records should include the following information:

- Beneficiary name;
- Health Insurance Claim Number (HICN);
- Reason for selection;
- Name of hospital, facility, or M+CO;
- Type of review it requires (e.g., fee-for-service or M+CO review); and
- Status of cases (e.g., completed, pending physician review, or pending data entry).

15730 - Boxing Of Data - (Rev. 1, 05-23-03)

The following types of data should be identified and boxed:

- All aggregate statistical information and profiles on M+CO, institutions, and physicians;
- All special study reports or summaries, including files and work papers, conducted on any area of the program during the contract period;
- All periodic (e.g., monthly, quarterly) data reports completed as required under the contract;
- The database of completed reviews, denials, adjustments, and reversals, as well as cases selected where the review has not yet been completed;
- All management information files and tracking system files (where proprietary systems are used, output files must be text files);
- All relevant specifications and documentation; and
- The list of M+CO enrollees and deaths used to determine the current review sample.

NOTE: "All" means data collected during the current contract.

15740 - Boxing Of Miscellaneous Records - (Rev. 1, 05-23-03)

The following types of miscellaneous records should be boxed:

- Written beneficiary complaints received directly or through CMS;
- A schedule of any remaining speaking engagements of the community outreach program;
- Action plans in progress;
- A list of designated rural providers;
- A list of providers/physicians identified for educational feedback and the supporting documentation;
- Copies of all Memoranda of Understanding/Memoranda of Agreement with Medicare providers, facilities, M+CO, Fiscal Intermediaries (FIs), and carriers;
- Copies of all technical denials and the reasons for denial;
- Documents pertaining to sanction cases; and
- Any other documents, materials, cases, and work now the responsibility of the new contractor.

You should contact the PO and/or the Contracting Officer if you question whether or not to box an item or discard it.

15750 - Retention Of Financial Records - (Rev. 1, 05-23-03)

All financial records and supporting documents are to be retained for 3 years by a designated, responsible individual of the outgoing contract or in accordance with Government contract requirements. If any litigation claims or audits are begun before the expiration of the 3-year period, all records shall be retained until the completion of the action or until the end of the regular 3-year period, whichever comes last. The 3-year period begins on the date the outgoing contractor submits its final deliverables, as listed in Section F of the QIO contract, to CMS.

The name, address, and telephone number of the designated individual responsible for retaining records should be given to the PO.