



Eliminate Barriers to Care and Facilitation of Safe and Appropriate Transitions

Observation Services

Medicare statutes and regulations do not define observation services. The only definition appears in various CMS manuals, where observation services are described as: ¹

"a well-defined set of specific, clinically appropriate services, which include ongoing short term treatment, assessment, and reassessment, that are furnished while a decision is being made regarding whether patients will require further treatment as hospital inpatients or if they are able to be discharged from the hospital."²

According to the CMS manuals, in most cases a beneficiary may not remain in observation services for more than 24 or 48 hours.³

Unfortunately, under current Medicare rules, time spent in outpatient observation services in a hospital does not satisfy the three-day inpatient hospital requirement which entitles the patient to Medicare coverage of any post-hospital extended care services in a skilled nursing facility (SNF). This means that Medicare beneficiaries are then charged directly for various services they receive in an acute care setting, including prescription medications, and for their SNF stay, rather than Medicare covering those costs. Patients who are medically qualified for SNF placement, but are unable to pay out-of-pocket, are often discharged to home because they did not satisfy the three-day stay requirement.⁴

ACMA's Position

Observation services and the three-day stay requirement are issues that adversely impact both patient and provider; creating barriers for case managers in providing appropriate care and facilitating safe transitions.

Our Request

Support efforts to halt the inappropriate use of observation services by co-sponsoring H.R. 1421 or S.568. This bill (Improving Access to Medicare Coverage Act of 2017) amends Medicare law to allow for the time patients spend in the hospital under observation services to count toward the requisite three-day hospital stay for coverage of skilled nursing care.

References

1. "Observation Status: Lawsuit, Bagnall v. Sebelius (No. 3:11-cv-01703, D. Conn), filed on November 3, 2011." Center for Medicare Advocacy, Inc. 31 May 2012 <<http://www.medicareadvocacy.org/medicare-info/observation-status/>>.
2. Medicare Benefit Policy Manual, CMS Pub. 100-02, Chapter 6, §20.6; same language in Medicare Claims Processing Manual, CMS Pub. 100-04, Chapter 4, §290.1.
3. *Id.*
4. American Case Management Association. "Observation Status and the 3-Day Stay Requirement." Survey. 19 April 2012.