

ISSUE BRIEF

Observation Stays Constraining Access to Medicare Skilled Nursing Facility Services for Beneficiaries

Skilled nursing facilities (SNFs) serve our most vulnerable citizens – frail elders and those with disabilities who need complex medical, rehabilitative, and restorative care, 24 hours a day, 7 days a week. In many instances, a patient’s need for these services has arisen from a medical crisis involving a stay in an acute care hospital.

However, to access the skilled nursing facility benefit under Medicare Part A, patients must be admitted to an acute care hospital for at least three days. There is a growing trend for hospitals to place patients in observation stays rather than admitting them as inpatients. If a Medicare beneficiary was hospitalized under observation, and needs SNF care once he or she is released-- Medicare will not cover the SNF services under Part A, even if the observation stay lasted at least three days. Technically, there was no hospital admission if a patient is under observation.

Placing patients in an observation stay appears to have become a pre-emptive action on the part of hospitals concerned about potential denials of inpatient stay reimbursement due to allegations that there was no medical necessity.

Observation services are defined in Medicare's manuals as a 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 should be released. The manuals suggest that a patient should not remain in observation for more than 24 hours and not more than 48 hours for exceptional circumstances. Recent trends illustrate that the frequency of observation stays is increasing as well as the duration of such stays well beyond the limits set by CMS.

The American Health Care Association (AHCA) is gravely concerned that access to SNF care for Medicare beneficiaries is being constrained by the rising use of observation stays, which precludes patients from meeting the three-day stay threshold for Medicare coverage. Representatives Joseph Courtney (D-CT) and Tom Latham (R-IA) and Senators John Kerry (D-MA) and Olympia Snowe (R-ME) share this concern and introduced the *Improving Access to Medicare Coverage Act of 2011 (H.R. 1543/S. 818)* to address these situations. We request that Members of Congress cosponsor this legislation.

AHCA has long advocated that all days spent in a hospital should be counted for purposes of the three-day hospital stay requirement for Medicare SNF post-acute coverage. Solving the observation stay problem is a step in the direction of person-centered, thorough and seamless health care, which is most appropriate in light of the new era established by the enactment of the *Patient Protection and Affordable Care Act (PPACA)*. While we continue to believe that the three-day stay mandate serves as a needless gatekeeper which hinders consumer access to SNF services, the incorporation of the observation day into the three-day stay requirement is a good first step.

Ask Congress...

To cosponsor the *Improving Access to Medicare Coverage Act of 2011 (H.R. 1543/S. 818)*

Key Facts

- Most SNF patients annually, 1.9 million, were Medicare beneficiaries.
- Daily, SNFs care for 1.5 million patients.
- Medicare covers 100 days of SNF care per episode of care, following a qualifying 3-day hospital stay.
- Medicare Part A pays all costs for the first 20 days of care and for the remaining 80 days, the beneficiary must pay a daily co-payment.
- Medicare observation services are defined as a 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 should be released. CMS suggests a patient should not remain in observation for more than 48 hours.

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