

Payment and coverage for hospital admissions:

Inpatient versus observation care

Concerns regarding the admissions status of patients undergoing short hospital stays intensified in recent years as these stays became targets of Medicare recovery audit contractor (RAC) reviews and the use of *observation* status as an alternative to *inpatient admission* increased exponentially. Observation care is described by the Medicare program as a well-defined set of clinically appropriate services that includes short-term treatment, assessment and reassessment before a decision can be made as to whether a patient can be discharged or requires further treatment as an inpatient.

Background

The distinction between inpatient versus observation status is not always clear-cut. Patients undergoing short hospital stays may be treated similarly to inpatients but classified as outpatients receiving observation services. Patients may not be aware that they are “under observation,” or that this designation significantly impacts coverage, payment and cost-sharing expenses under the Medicare program.

Hospital inpatients receive Part A benefits and are also entitled to post-hospital skilled nursing facility (SNF) coverage after three consecutive hospital inpatient days. Hospital deductibles and copayments apply. Patients receiving observation care are classified as hospital outpatients and therefore covered under Part B, which requires cost-sharing for each service rendered and which does not cover self-administered drugs. Because days spent under observation status do not count toward eligibility for Medicare SNF coverage, observation patients must either forego post-hospital SNF care or pay for it themselves.

Hospital admission decisions are inherently complex clinical judgments formulated by physicians after careful consideration of numerous factors, including the severity of each patient’s condition, the likelihood of adverse events, patient medical history, and hospital bylaws and admissions policies. Medicare policy recognizes that the physician responsible for a patient’s

care at the hospital is also responsible for deciding whether that patient should be admitted as an inpatient. Physicians have had longstanding concerns regarding the inappropriate use of observation status, which is paid by Part B but differs from traditional outpatient services and in many instances better resembles inpatient care.

Two-midnight rule

Under the *two-midnight rule*, established by the Centers for Medicare & Medicaid Services (CMS) in 2013, hospital inpatient admissions are considered reasonable and necessary for patients whose stays cross two midnights, and these stays are payable under Part A. Stays expected to span less than two midnights under the rule are generally considered outpatient and therefore paid for by Part B.



Consider the case of Patient A, who is hospitalized for chest pain from 11 p.m. Sunday to 4 a.m. Tuesday (a total of 29 hours) and is presumed to be an inpatient because his stay spanned two midnights. Under the two-midnight rule, the patient is covered by Medicare Part A and responsible for a one-time deductible of \$1,260 for services received after the order for inpatient services was made by a physician. Patient B, who presents with chest pain at the hospital *two hours after* Patient A—at 1 a.m. Monday—and is discharged at 10 p.m. Tuesday (a total stay of 45 hours) is classified as an outpatient. Patient B is therefore responsible for 20 percent copayments for each individual service provided during his stay as well as the costs of any self-administered medications.

In its rulemaking for 2016, CMS maintains the two-midnight benchmark but clarifies that certain stays that are less than two midnights can be payable under Part A on a case-by-case basis based on the judgement of the admitting physician. To qualify, documentation in the medical record must support that an inpatient stay is necessary, subject to medical review.

Where the AMA stands

The American Medical Association has repeatedly urged CMS to develop hospital admission policy that addresses physician and patient concerns regarding the inappropriate use of observation care and the considerable documentation burden placed on admitting physicians under the two-midnight rule.

The AMA's extensive policy on hospital admissions and observation care provides a strong foundation for advocacy efforts to accomplish the following goals:

- Rescission of CMS's two-midnight rule. This flawed policy is confusing for hospital patients and onerous for physicians who must meet a multitude of requirements in order to admit patients as inpatients.
- New solutions that reduce the inappropriate use of hospital observation status and an admissions process that is transparent and administratively simple.
- Elimination of the three-day hospital inpatient requirement for Medicare coverage of post-hospital SNF care. In the interim, time spent in the hospital receiving observation services should count toward the three-day stay threshold.
- Determinations of medical necessity for hospital admissions that are made only by appropriately qualified physicians (i.e., doctors of medicine or osteopathy who are licensed in the same jurisdiction as the treating physician).