

Special Article
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Medicare's Two Midnight Rule

Effective October 1, 2013, the Center for Medicare and Medicaid (CMS) revised the criteria defining a Medicare inpatient. Under the new criteria, if the treating physician expects the patient to remain hospitalized for two or more midnights the patient will be an inpatient. Patients not expected to stay two or more midnights will be considered outpatients in observation status.

As a result of the new inpatient criteria, hospitals will experience a decrease in the number of inpatient short stays and an increase in the number of outpatient observation stays. This will have a significant negative financial impact on hospitals due to the payment differential between an inpatient short stay and an outpatient observation stay. The Office of Inspector General (OIG) analyzed Medicare claims from 2012 and found that on average Medicare paid about three times less for an outpatient observation stay (\$1,741.00) than it did for an inpatient short stay (\$5,142.00).¹ Essentially, hospitals will provide the same care that they provided prior to October but will be paid significantly less for that care under the new Two Midnight Rule.

The Two Midnight Rule will also have a financial impact on Medicare beneficiaries. Patients receiving outpatient care have a coinsurance responsibility of 20%. With the shift from inpatient to outpatient observation status, patients will incur a greater out-of-pocket financial liability for the care they receive.

Lastly, patients must be admitted to a hospital as an inpatient for three days in order to qualify for Medicare skilled nursing facility benefits upon discharge. Under the Two Midnight Rule, fewer patients will meet the three day qualifying inpatient stay. As a result, patients needing skilled nursing facility care upon discharge will not qualify for Medicare benefits and will be financially responsible for the skilled nursing facility care they receive.

Health care providers are advocating to CMS and Congress for revisions to the Two- Midnight Rule inpatient criteria. We will have to stay tuned to see if CMS remains committed to the criteria it established under the Two-Midnight Rule.

1 Source: Memorandum Dated July 29, 2013 from the OIG Deputy Inspector General for Evaluation and Inspections to CMS