



Medicare Inpatient/Outpatient Status

Alliance for Health Reform Meeting
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1

Inpatient Hospital Services

- 1965 to 1983: Paid based on Medicare's share of hospital's reasonable costs.
- 1983 to present: Paid based on inpatient prospective payment system.
- Beneficiary liability:
 - Inpatient hospital deductible.
 - 3 day prior inpatient hospitalization for skilled nursing facility.

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2

Outpatient Hospital Services

- 1966 to 2000: Paid based on Medicare's share of hospital reasonable costs.
- 2000 to present: Paid based on outpatient prospective payment system.
- Beneficiary liability:
 - Coinsurance for each service after Part B deductible is met.
 - No coverage of self-administered drugs.
 - Time does not count towards 3 day prior inpatient hospitalization for skilled nursing facility.

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3

Inpatient Admission Decision

Until October 1, 2013, the following guided inpatient admission decisions:

- “An **inpatient** is a person who has been admitted to a hospital for bed occupancy for purposes of receiving inpatient hospital services. Generally, a patient is considered an inpatient if formally admitted as inpatient with the expectation that he or she will remain at least overnight and occupy a bed...”
- “Physicians should use a 24-hour period as a benchmark, i.e., order admission for patients expected to need hospital care for 24 hours or more, and treat other patients on an outpatient basis. However, the decision to admit a patient is a **complex medical judgment...**” [Emphasis added]

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4

Factors Leading to Long Stay Outpatient Cases

- More Review of Inpatient Admission Decisions:
 - Error Rate: Comprehensive Error Rate Testing (CERT) finding a high rate of incorrect short stay admissions.
 - Recovery Audit Contractors (RACs): Contractors whose fee is paid based on a percentage of recovered incorrect payments.
- Limited hospital rebilling for denied admissions subject to timely filing until March, 2013.
 - Part B ancillary services only; and
 - Within timely filing limits (currently 1 year from date of service).

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5

Community Responses/Results

- Longer beneficiary stays as outpatients.
 - Time does not count towards 3 day prior hospitalization for skilled nursing facility.
 - Coinsurance for Part B outpatient services.
 - Charges for self-administered drugs.
 - Patient unaware that he or she is an outpatient.
 - Beneficiary lawsuit challenging use of "observation" stays.
- Hospital appeals of inpatient denials and lawsuit challenging Part B rebilling policy.
- Administrative Appeals:
 - Upholding inpatient denials but referring back to contractor for billing under Medicare Part B.
 - Followed by tens of thousands of hospital appeals seeking either Part A or Part B payment.

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6

CMS Responses

- Administrator Ruling:
 - For reasonable and necessary denials, allows hospitals to bill for all Part B services where appeals rights remain or admission occurred prior to 10/1/2013.
 - Patient status remains INPATIENT to protect beneficiary rights to skilled nursing facility care.
- FY 2014 Inpatient Rule:
 - Allows hospitals to bill for all Part B services within 1 year of date of service following inpatient denial or self-audit.
 - Patient status remains INPATIENT to protect beneficiary rights to skilled nursing facility care.
 - 2 midnight rule.

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7

Inpatient Order and 2 Midnight Rule

- Physician Order: Hospital time prior to formal admission following an inpatient order does not count towards 3 day prior hospitalization.
- 2 Midnight Rule:
 - Claims may be selected for patient status review if the claim indicates there is an inpatient stay of 0-1 midnights.
 - Medical reviewers will consider both outpatient and inpatient time when reviewing selected claims to assess the physician's expectation of care for 2 or more midnights.
 - Unforeseen circumstance interrupting a physician's 2 midnight expectation: transfer for further inpatient care, patient death, discharged against medical advice.
 - Exceptions to 2 midnight policy: Inpatient-only procedures, rare & unusual circumstance (e.g. newly initiated mechanical ventilation).

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8

Questions?