

Extended Observation Stays Constrain Medicare Beneficiaries' Access to Skilled Nursing Facility Services

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.

In order 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. Increasingly, hospitals are keeping patients under observation rather than having them admitted 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 more than three days because – technically – the patient was not admitted as an inpatient and remained under observation. Such extended observation stays appear to be related to hospitals' concerns about potential denials of reimbursement due to allegations that there was no medical necessity for an inpatient stay.

Observation services are defined in Medicare manuals as a set of specific, clinically appropriate services, which include ongoing short-term treatment, assessment, and reassessment furnished while a decision is being made as to whether or not a patient requires further treatment as an inpatient 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 given exceptional circumstances. Recent trends indicate that both the frequency and duration of observation stays is increasing well beyond the limits set by the Centers for Medicare & Medicaid Services (CMS).

The American Health Care Association (AHCA) is concerned that Medicare beneficiaries' access to SNF care is being constrained by this increased use of observation stays, which prevents patients from reaching 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 our concern and have introduced the *Improving Access to Medicare Coverage Act of 2011 (H.R. 1543/S. 818)* to address these situations. AHCA supports their efforts and asks other Members of Congress to join in cosponsoring this legislation.

AHCA has long advocated that all days spent in a hospital count toward Medicare's three-day hospital stay requirement, which serves as a needless gatekeeper and often a hinderance to consumers who need skilled nursing care. Still, AHCA believes that incorporating time spent under observation toward the three-day stay requirement represents a good first step that will better align the nation's health care policies with our goal of achieving a more person-centered, seamless health care system.

Ask Congress...

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

Key Facts

- 3.2 million Americans – including 1.9 million Medicare beneficiaries – received skilled nursing & rehab care in 2008.
- More than 50% of all Medicare beneficiaries who need post-acute care are discharged from a hospital to one of nearly 16,000 skilled nursing facilities (SNFs) nationwide.
- Medicare covers 100 days of SNF care per episode of care, following a qualifying 3-day hospital stay.
- Medicare Part A pays all costs in the first 20 days; the beneficiary must contribute a daily co-payment for each of the remaining 80 days of Medicare-covered care.
- Observation services include specific, clinically appropriate services, such as ongoing short-term treatment, assessment & reassessment furnished while patients await a decision as to whether inpatient treatment is needed.
- CMS suggests patients should not remain under observation for more than 48 hours.

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