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Hospital Status – Observation vs. Admitted

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AASBCR® normally focuses on AT&T benefits, but the “Medicare observation trap” seems so unfair that we wanted to bring it to the attention of members anyway. It applies to both those using Medicare Advantage plans and those using Original Medicare/Medigap Supplement Plans.

The issue is this: Medicare coverage of a stay in a Skilled Nursing Facility (SNF) – such as for IV treatments or injections -- depends on how the hospital categorizes the hospital stay that preceded your transfer to the SNF. SNF coverage applies if you have spent at least three days (actually, “three midnights”) after being admitted to the hospital, but hospital days under observation prior to being admitted are not part of those three days.

Long-term, the solution is for Congress to pass a law that requires Medicare to count observation days as admittance days. Our ally NRLN is lobbying for this already, and so are the American Medical Association and AARP. But it was first introduced in 2013, and Congress has not acted on it yet.



In the meantime, the short-term solution is to insist to the doctor that you be admitted, not held “under observation.” Get your admitted status in writing – it depends on the doctor’s order, not just verbal assurances. If you weren’t admitted yesterday, insist again today.

Unfortunately, navigating these issues is not your focus when you are feeling sick enough to go to the hospital, while the hospital trains their doctors to “tilt” toward observation status. So, you need an advocate who can insist on admission status for you.

Picture the Situation

An ambulance brings you to the emergency room. You may be able to answer questions, but you are certainly not at your best! The doctor can send you home, admit you to the hospital, or

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keep you for observation, where your vital signs can be monitored with help nearby. If the doctor is not sure, the safest and easiest course for him or her is place you under observation.

Here's why: if you are admitted, the hospital runs the risk that a later audit may decide that you did *not* require medically-necessary in-patient care spanning at least two midnights, or other criteria negotiated between the hospital and your Medicare Advantage plan. In that case, they must pay back Medicare or the MA plan and cannot collect from the patient. So observation status is safer for the hospital because it gives them time to determine if admission can be justified, avoiding future financial risk.

Insurance Traps

While you are in observation status, you are liable for Medicare Part B deductible, copays, and drug costs. Once you are admitted, none of these apply, because you are then covered by Medicare Part A.

For Medicare to cover SNF services after a hospital stay, you must have been admitted for three midnights. Your discharge day does not count as an admitted day. Admission depends on whether you need care for at least two midnights, but SNF coverage depends on your being admitted for at least three midnights.

Your stay can be later reclassified from admitted to observation, when the hospital's Utilization Review (UR) committee reverses the doctor's decision to admit. The doctor must concur with the change, but he or she might find it hard to fight their bosses on the UR. You must be informed of such a change in writing while you are still in the hospital, and you now have the right to appeal the change with expedited review thanks to a recent court case.



Once you are in observation status for 24 hours, the hospital must notify you of that within 36 hours, and orally explain observation status and its financial consequences for patients.

Patients cannot appeal observation status to Medicare. They can only appeal a change from admitted status to observation status.

When you arrive at the SNF after leaving the hospital, be sure that you or your advocate asks whether Medicare will be covering the SNF costs.

Resources

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