



Two-Midnight Rule update: CMS issues proposed rule to clarify when inpatient admissions are appropriate for payment under Medicare Part A

July 8, 2015

On July 1, in order to clarify when inpatient admissions not projected to last more than two midnights are appropriate under Medicare Part A, the Centers for Medicare and Medicaid Services (CMS) announced a proposed rule that changes the standard for when inpatient admissions generally qualify for Part A payment under the Two-Midnight Rule.

The proposed rule clarifies that a physician may admit a patient for an inpatient stay payable under Medicare Part A when the physician expects the patient to need less than two midnights of hospital care on a case-by-case basis. The admitting physician is allowed to make this judgment, but the judgment must be supported by documentation in the medical record.

In addition, starting no later than October 1, 2015, CMS will use Quality Improvement Organizations (QIOs) to educate providers and enforce the Two-Midnight Rule rather than the Medicare Administrative Contractors (MACs), who currently enforce the rule.

Overview of the process

Under the proposed rule, the Two-Midnight Rule would operate as follows:

- For in-patient services a physician expects to last fewer than two midnights:
 - An inpatient admission would be payable under Medicare Part A, as long as the physician finds the admission is medically necessary and the documentation in the medical records supports the physician's conclusion.

- CMS will continue to monitor the number of these types of admissions, as they believe that it would be “rare and unusual” for patients to require inpatient admission for treatments in the hospital that are not expected to keep the patient in the hospital at least overnight.
 - In particular, CMS plans to prioritize cases of inpatient admissions for medical review where the patient was not even in the hospital for one midnight.
- For payment purposes, CMS finds the following factors relevant to determining whether an inpatient admission fewer than two midnights is appropriate for Part A payment:
 - the severity of the signs and symptoms exhibited by the patient;
 - the medical predictability of something adverse happening to the patient; and
 - the need for diagnostic studies that appropriately are outpatient services (that is, their performance does not ordinarily require the patient to remain at the hospital for 24 hours or more).
- The CMS policy is unchanged for inpatient services a physician expects to last at least two midnights:
 - If the admitting physician expects the patient to require inpatient care lasting at least two midnights, then the services are appropriate to be billed under Medicare Part A.

QIOs will now enforce medical reviews (finalized change)

Beginning no later than October 1, 2015, CMS will now use QIOs, rather than MACs, to conduct medical reviews of providers who submit claims for inpatient admissions. CMS is making this change in enforcement authority because of QIOs “significant history of collaborating with hospitals and other stakeholders to ensure high quality care for beneficiaries.” QIO reviews will focus on educating physicians and hospitals on Part A payment policies for inpatient admissions. Recovery auditor patient status reviews will be conducted by the recovery auditors for those hospitals that have consistently high denial rates based on QIO patient status outcomes.

CMS believes that the use of QIOs for medical reviews complements a number of changes already made to the recovery audit program, including changing the “look-back period” for patient status reviews to six months from the date of service when a hospital submits a claim within three months of the date the service was provided.

Finally, CMS will accept comments on the proposed changes to the Two-Midnight Rule until August 31, 2015, and will respond to comments in a final rule to be issued on or around November 1, 2015.

For more information see the [“Fact Sheet: Two-Midnight Rule”](#) on the CMS website or the [proposed rule change](#) on the Federal Register.

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