



## Hospitals: Are you ready to give NOTICE?

March 16, 2016

In response to the growing trend of hospitals keeping patients in outpatient status with observation services rather than admitting them as inpatients, Congress, last year, passed a law requiring hospitals and critical access hospitals (CAHs) to give each Medicare patient who receives extended observation services notice regarding the patient's status. Starting August 6, 2016, hospitals are required to inform patients who are hospitalized more than 24 hours that they are outpatients of the hospital or CAH receiving observation services, not hospital inpatients. This requirement comes from the [Notice of Observation Treatment and Implication for Care Eligibility \(NOTICE\) Act](#) that was signed into law on August 6, 2015. Under the law, patients must be informed that they are in observation status, both orally and in writing, no later than 36 hours after the patient begins receiving observation services. The written notice must also explain:

- that the patient is an outpatient receiving observation services and is not an inpatient of the hospital;
- the reason for being in observation status; and
- the implications of such status both for cost-sharing in the hospital (Part B cost-sharing versus Part A) and for subsequent eligibility for coverage in a skilled nursing facility if the patient does not have a qualifying inpatient stay.

The patient, or a person acting on the patient's behalf, must sign the notice acknowledging receipt. If the patient/representative refuses to sign acknowledging that the notification was given, the hospital staff member who presented the notice must sign the notice, certifying that the notification was given and the time and date that such notification was presented. The staff member's name and title must also be included.

Centers for Medicare & Medicaid Services (CMS) is expected to issue regulations implementing this new requirement, but, as of the date of this bulletin, those regulations have not yet been issued. However, because the law is self-implementing to be effective one year from enactment, hospitals must comply with this new requirement effective August 6, 2016, even if no regulations have been published by that date. This means that hospitals should be working now to develop the notice that will be given to patients and any policies/procedures needed to ensure that the notice is provided in a timely manner in accordance with the law. Once CMS issues regulations, hospitals may have to revise their notices and/or policies and procedures to the extent that the regulations impose additional requirements.

# Authors

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