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Medicare observation status will come

Kaiser Health News reported recently that starting August 6, 2016, a federal law will go into effect that requires hospital patients under observation status to be informed of that status in writing. Naturally, with any change in the law, but especially one with potential negative financial consequences for seniors, there is controversy involved. (<http://www.usatoday.com/story/news/2016/06/11/kaiser-controversy-erupts-over-medicare-observation-care-requirements/85753660/>).

Observation status for Medicare patients is a fairly recent phenomenon in which someone enters the hospital and is moved to a patient room but is not actually admitted to the facility. It is purportedly a way to see over time if a patient who was too sick to go home might be actually sick enough to be admitted. The hospital is concerned that if they admit patients who subsequent auditors determine should not have been admitted, that Medicare will pay nothing for their care. In the meantime, the patient is being treated as if admitted but Medicare Part A (the hospital benefit) is not paying for the care. All costs are being charged to the Part B benefit (outpatient care) and often no one is paying for medications unrelated to the reason the person was admitted. Furthermore, the Medicare beneficiary does not qualify for care in a rehab under the Medicare benefit even if he or she was hospitalized for 3 or more days.

The purpose of the new Notice is to inform patients and their families of the fact that there was no actual "admission" even if the patient is moved to a patient room and remains in the facility for a number of days. Starting August 6, Medicare patients are to receive notice in written form ("plain language") after 24 hours of observation care and no later than 36 hours from entrance to the facility. This notice must explain the reason that the individual was not admitted, and how that failure to be admitted will affect Medicare's decisions for payment for services and the patient's cost sharing responsibilities. The information must also be provided verbally, and a doctor or hospital staff person must be available to answer questions.

Some experts have serious reservations about the effectiveness of the Notice as currently written. Although most consumer materials are written to target an eighth grade reading level, this Notice is written at a 12th grade reading level. It also assumes an understanding about health insurance that most people do not have. Representative Lloyd Doggett (D-Texas), one of the co-sponsors of the law, was quoted that he is concerned that "the proposed notice fulfills neither the spirit nor the letter of the law." He goes on to say that the draft Notice does not require the hospital to explain exactly why the Medicare beneficiary is under observation instead of being admitted, the critical difference between Medicare Part A and Part B coverage, and that patients who are under observations, while appearing to have a qualifying hospital stay, are not eligible for transfer to a nursing facility for rehab under the Medicare benefit (up to 100 days of care).

Most prescriptions drugs, other than those administered that relate to the reason for the hospitalization, are not covered under Part B. Hospital pharmacies are not equipped to bill Part D for medications since a patient covered by Medicare Part A also has prescription meds covered under Part A. Doctors are concerned because although they might recommend admission, hospital officials can over-rule this.

Observation status is another example of the need for consumer protection for Medicare patients. A Notice would at least inform the patient of his or her status but many will not understand the implications of this status.