

### **Are you an inpatient or an outpatient?**

This article isn't just for CFS/CFIDS/ME & FM patients; it is for anyone on Medicare. MEDICARE WANTS YOU to pay. There appears to be what was a small loophole and now has become a very large one in the reimbursement side of Medicare. There are so many regulations in place and one example is how coverage for nursing/rehabilitation facilities is determined. Medicare insurance only kicks in if the patient has been an inpatient in a hospital for three or more days, not counting the day of discharge.

Did you know that if given the designation of inpatient, Medicare Part A covers everything while you are a patient in the hospital, including all medications minus your fixed deductible? If you are held for observation, it triggers Part B of Medicare, which covers medical service as an individual "outpatient" service, for which a copayment is typically charged for each service. The result is that you could be left with a big bill, including the cost of all medications which are not covered by Part B.

### **The problem**

Patients need to be aware of the growing trend for hospitals to put Medicare patients on observation rather than admitting them. Patients quickly find themselves trapped in a web of bureaucracy. Instead of being ill and concentrating on getting better, patients are continually socked with HUGE unexpected bills when leaving the hospital. The likelihood that a hospital will change a patient's classification, after the fact, is slim to none. This type of stress is not helpful. How can this happen?

Injuries or acute symptoms typically bring people to the hospital. When their diagnosis may not be immediate or patients have other risk factors, it is a common practice for doctors to keep patients under observation until they can be safely released. The duration of observation is typically for the first 24 hours and occasionally may be longer. It is also possible for patients to be under "observation" status following surgery done at the hospital. Recent studies from Brown University, Providence RI, showed a 25% increase, from 2007, in Medicare patients who were kept in "observation" status for an extended period of time. Patients are often unaware of their status while in the hospital, but their status will make a tremendous difference in how their claim gets paid by Medicare as well as qualify or deny them coverage for aftercare.

The observation designation triggers Part B Medicare which covers doctor's visits and tests as an outpatient, with the patient paying 20% for each service after a deductible. And, if the patient is held with a designation of "observation" versus "inpatient", the time spent in the hospital does

not count towards the three-day rule. This can add up quickly. Furthermore, if a patient was not classified as "inpatient" at a hospital for at least 3 days (hence, the three-day stay rule) then NONE of their rehabilitation or skilled nursing care will be covered by Medicare. The patients or their families have to pay for aftercare all out of pocket because the three-day rule had not been met, regardless of how that happened. If the patient meets the three-day rule, the first 20 days cost nothing and then there is a daily set fee for days 21 to 100.

### **Why does this happen?**

In an effort to reduce fraud and costs, Medicare uses an automated screening program, developed by private companies, to determine if the patient warrants being an inpatient. These screening programs/formulas can override medical test results offered by the doctor. Although at the hospital it may look like the doctor is making the decision, the patient's record is handed off to a case-worker, who then uses the same type of screening program as Medicare to make the determination letting the doctor know if his decision can stand.

### **After the fact change**

If the auditors at MEDICARE reverse an "inpatient" decision to "observation", with the benefit of hindsight, they can, after the fact, change the designation. The result is the hospital gets paid nothing. All this financial insecurity has led hospitals to err on the side of "observation" classification for patients. Being paid something is better than nothing and patients don't know the difference because they get the same care. They can be put into a hospital room, get the same level of care for days and have no idea their time is not being counted. MEDICARE says they get less care for observation hence the justification of the reduced payment. Medicare doesn't have any regulations to assure that the patient has to be informed.

CNN Money Magazine did a story on this problem on August 7, 2012 using two examples. One person went to the hospital with pelvic fractures and was there for 4 nights and 5 days. She was handed a huge bill on discharge because she was held all that time on a designation of observation. She is still fighting with Medicare. The other patient was admitted with a broken pelvis and elbow, but the next day the decision was reversed to observation status. Only on the third day, when she had surgery, was her status considered as inpatient again. She was then sent to a rehabilitation facility for three months. Because of the change in her status, she was on the hook for the \$20,000 bill, for lack of one day under "in patient" status. Be sure to read the entire CNN report (link is provided at the end of this article).

*The major concern voiced by many physician and patient advocate groups is that some seniors will forgo needed medical care.*

In November of 2011, The Center for Medicare Advocacy and the National Senior Citizens Law Center filed a lawsuit against the Department of Health and Human Services on behalf of seniors challenging the use of "observation" status. The suit currently has 14 litigants.

### **What can patients do?**

Though it may seem medically irrational and extremely burdensome for patients, it is crucial that anyone covered by Medicare ASK about their "hospital status" once they start receiving care and especially if there is any uncertainty about whether they will be admitted or left under observation. Each hour will count and add up for many unsuspecting patients who WILL pay the price for this interim phase - observation services. All Medicare patients are advised to read the publication about hospital status at the Centers for Medicare & Medicaid Services site (link is provided at the end of this article).

### **For more information**

*Are You a Hospital Inpatient or Outpatient? If You Have Medicare - Ask!* ( <http://www.medicare.gov/publications/pubs/pdf/11435.pdf>

) — a guideline published by the Centers for Medicare & Medicaid Services that reviews hospital status, uses a chart depicting several common hospital situations and describes how Medicare Plan A or Plan B would respond to each case.

The CNN report, "*The painful new trend in Medicare*" (CNN Money) by Amanda Gengler released on August 7, 2012 is currently available at:

<http://money.cnn.com/2012/08/07/pf/medicare-rehab-costs.moneymag/index.htm>