

Clarifying the “Two-Midnight Rule” and Part A Payments Re: Inpatient Care



Article By

[Emily M. Hord](#)

[McBrayer, McGinnis, Leslie and Kirkland, PLLC](#)

[Health Care Law Blog](#)

- [Insurance Reinsurance & Surety](#)
- [Health Law & Managed Care](#)
- [Administrative & Regulatory](#)

- [All Federal](#)

Tuesday, September 10, 2013

In August, the **Centers for Medicare and Medicaid Services** (“**CMS**”) announced a final rule regarding the prospective payment for acute care and long-term care hospital inpatient services for fiscal year 2014. This rule becomes effective on October 1, 2013.

This final rule provides clarification to hospitals and physicians for determining when a patient should be designated as an inpatient. Physicians often hesitate to order an inpatient admission stay for fear of denial of the costly inpatient reimbursement claim. When a Medicare review contractor denies a Medicare Part A inpatient admission, the hospital loses a significant amount of reimbursement due to Medicare Part B only covering a small proportion of ancillary services provided during inpatient admission.

If, on the other hand, a patient is designated as an outpatient from the beginning of his/her episode of care, Part B covers all of the services. However, a hospital cannot retroactively change a patient’s status as inpatient to outpatient. Thus, hospitals may benefit financially from treating admitted patients as outpatients under extended observation.

Under the final rule, CMS specified the circumstances under which an inpatient admission is appropriate and reimbursable under Medicare Part A. An inpatient

admission is reimbursable under the following conditions:

- The patient is formally admitted to the hospital pursuant to an order for inpatient admission by a physician or other qualified practitioner.
- The admission order is in the medical record and is supported by the physician's admission and progress notes; and,
- The physician certifies that the services are required on an inpatient basis and includes the following in the medical record:
 - An order for inpatient admission;
 - A documented reason for the inpatient hospitalization for either inpatient medical treatment or a diagnostic study, or special or unusual services for cost outlier cases; and,
 - A statement that inpatient hospital services were provided in accordance with the admission order.

Further, the final rule clarifies that if a physician admits a Medicare beneficiary as an inpatient with an expectation that the beneficiary will require care that "crosses two midnights," Medicare Part A payment is "generally appropriate." However, if a physician expects the patient to require hospital care for less than two midnights, Medicare Part A payment is generally inappropriate. [For a continued discussion about this final rule - click here.](#)

© 2019 by McBrayer, McGinnis, Leslie & Kirkland, PLLC. All rights reserved.

Source URL: <https://www.natlawreview.com/article/clarifying-two-midnight-rule-and-part-payments-re-inpatient-care>