Observation Services: The NOTICE Act and MOON

CMS’ Notice of Observation Treatment and Implications for Care Eligibility (NOTICE) Act has been making waves since President Barack Obama signed it on August 6, 2015. The intent of the act is to aid patients in understanding the difference between observation and inpatient services. The NOTICE Act is effective August 6, 2016.

The NOTICE Act requires that any observation patient who has been in the hospital for more than 24 hours be told both verbally and in writing that he or she is being treated as an outpatient in observation. Hospital officials have to deliver this notification and communicate this information no more than 36 hours after the initiation of the patient’s observation stay.

Currently, the NOTICE Act states that the notification must:

• Explain the individual’s status as an outpatient and not as an inpatient and the reasons why

• Explain the implications of that status on services furnished (including those furnished as an inpatient), in particular the implications for cost-sharing requirements and subsequent coverage eligibility for services furnished by a SNF

• Include appropriate additional information

• Be written and formatted using plain language and made available in appropriate languages

• Be signed by the individual or a person acting on the individual’s behalf (representative) to acknowledge receipt of the notification, or if the individual or representative refuses to sign, the written notification is signed by the hospital staff who presented it

In the FY 2017 IPPS proposed rule, CMS proposes implementing requirements
for the observation notice required under the NOTICE Act. It proposed a new form, the Medicare Outpatient Observation Notice (MOON) to satisfy the notice requirements under the law.

Having the MOON allows the patient not only to understand the reason he or she is receiving observation services and the financial implications of his or her status, but also how it might affect the patient’s choices for postacute care. Perhaps most importantly, it can help patients understand that they might not be able to receive Medicare-covered services at a skilled nursing facility (SNF) because Medicare won’t pay for the service without a three-day inpatient stay. The proposed rule discussed the elements on the form, including an explanation of the impact of observation on the patient’s copayment and deductible liability and eligibility for SNF benefits.

Frequently asked questions

Q. Is the MOON notice required for patients in outpatient and a bed status, such as extended recovery?

A. No. This is only for patients receiving observation services.

Q. Is it mandated to use the CMS MOON notice or can we construct our own notice?

A. The MOON notice is the one that is mandated, although CMS has not yet released the final version (as of press time in June 2016).

Q. Who is handing out the MOON notice in most hospitals?

A. It depends on the individual hospital, but due to the nature of the verbal explanation it might be a role for case management and utilization review.

Q. Should the MOON notice be used only for Medicare or Medicare HMO patients or should it also be used for commercial insurance and Medicaid patients?

A. The instruction is that it is for Medicare fee-for-service and Medicare Advantage. Most hospitals have developed some kind of a notification for observation patients. In some states, the state has mandated a certain notice to be used.
Resources


References


Learn More

Have your questions answered live at this year’s 2016 Revenue Integrity Symposium by HCPro’s senior regulatory leader Kimberly Anderwood Hoy Baker, JD, CPC, as she discusses this topic in further detail.

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