

Centers for Medicare & Medicaid Services (CMS) Provides Insight on Review of Two Midnight Rule Claims

Article By:

Health Law

In a National Provider Call on January 14th, CMS representatives described how the agency and its contractors will review claims under the two-midnight rule.

CMS stated that the “**medical review benchmark**” will include the total time (excluding wait times) a patient spends getting medically necessary care in the hospital. For example, if a patient receives appropriate outpatient hospital care that crosses one midnight; and then the physician re-evaluates and determines that the patient needs hospital care that crosses a second midnight, the total time spent in the hospital will count toward the two midnight standard. Importantly, the physician must still write an order documenting the need for medically necessary hospital services for the patient beyond the second midnight. In this example, CMS says its contractors will generally find Medicare Part A inpatient payment to be appropriate.

Thus, the two midnight clock starts when hospital care (observation, emergency department, etc.) begins after registration and initial triage, but the inpatient admission does not begin until the physician writes the inpatient order. CMS stated that if a claim shows a stay of two or more midnights, reviewers will presume for claim selection purposes that inpatient admission is appropriate and the claim will not be the focus of medical review. CMS cautioned that any claim may be reviewed, however, if the agency or its contractors suspect unnecessary delays in care or inappropriate provision of hospital care occurs to extend stays beyond two midnights.

During today’s call, CMS urged providers to use the voluntary code **Occurrence Span Code 72** (“contiguous outpatient hospital services that preceded the admission) to be reported on inpatient claims.

The two-midnight rule provides that patient care is generally appropriate for Medicare Part A inpatient hospital payment when:

1. the physician expects a patient to require a stay that crosses two midnights; and
2. writes an admission order based on that expectation.

If a physician expects a patient to stay in the hospital for a period that does not cross two midnights, hospital inpatient status is generally inappropriate, unless the service is one on the Medicare inpatient only list or other unforeseen circumstances exist.

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