

STATEMENT FOR THE RECORD
SUBMITTED TO THE U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON WAYS & MEANS, SUBCOMMITTEE ON HEALTH

HEARING ON

“Current Hospital Issues in the Medicare Program”

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The Alliance for Retired Americans appreciates the opportunity to submit comments to the Committee on Ways and Means, Subcommittee on Health for the hearing entitled “Current Hospital Issues in the Medicare Program,” which focused on Medicare’s two midnight rule. The Alliance is very concerned about the growing practice of hospitals keeping patients under “observation status”, rather than admitting them as inpatients. We are hearing from more and more of our members who are being affected by the policy.

Founded in 2001, the Alliance is a grassroots organization representing more than 4 million retirees and seniors nationwide. Headquartered in Washington, D.C., the Alliance and its 33 state chapters work to advance public policy that strengthens the health and economic security of older Americans by teaching seniors how to make a difference through activism.

Observation status is a designation used by hospitals to bill Medicare. As a result of this designation, more and more seniors are experiencing difficulties getting Medicare coverage for admission to skilled nursing facility (SNF), along with other billing issues. In fact, Medicare estimates show that 1.6 million seniors were placed in “observation status” during a hospital stay in 2011. This is a 69 percent increase over the previous 5 years.

While Medicare manuals suggest hospitals may hold individuals up to 24 hours (and in some exceptional circumstances up to 48 hours) in “observation status” prior to being admitted, many seniors that spend numerous days in the hospital are deemed to be in “observation status.” Care provided to patients who are placed in “observation status” is billed as outpatient rather than inpatient. This means that patients are responsible for the 20 percent copay. Also, patients are being billed for medications they take routinely and which are not a result of the hospital visit.

The most significant consequence is for seniors who upon discharge from the hospital require care at a skilled nursing facility. If these Medicare beneficiaries were deemed to be outpatients or in “observation status”, they do not meet the three-day inpatient stay requirement necessary to receive Part A coverage for post-hospital care at a skilled nursing facility. These individuals find themselves having to cough up thousands of dollars for their care at these facilities or go without needed care altogether. Many seniors are having to mortgage their homes or ask their loved ones for money to cover their medical bills. While Medicare beneficiaries may try to appeal Medicare’s decision, the appeals process is long and tedious with unknown outcomes, and this usually occurs after beneficiaries have spent considerably out of pocket to get care.

We are also hearing that in many states the state employees health care fund is paying for retired state employees who find themselves in “observation status.” This is

placing a burden on the coffers of many state employees health funds. States should not have to pay the cost of what is clearly a covered service under the Medicare program.

Medicare beneficiaries who have played by the rules and contributed their entire working lives to the program so that they can have peace of mind and be covered for medically necessary services should not find themselves incurring unexpected costs and having to hire attorneys to get the coverage they already paid for.

One solution that would solve this situation is for Congress to pass the bipartisan bill Improving Access to Medicare Coverage Act of 2013, S.569 and H.R. 1179, introduced by Senators Sherrod Brown and Susan Collins and Representatives Joe Courtney and Tom Latham, which would amend Medicare law to count a beneficiary's time spent in the hospital on "observation status" towards the three-day hospital stay requirement for skilled nursing care. The measure would also establish a 90-day appeal period following passage for those that have a qualifying hospital stay and have been denied skilled nursing care after January 1, 2013.

The Alliance for Retired Americans is pleased to support the Improving Access to Medicare Coverage Act and urges its speedy adoption by Congress.