



CURRENT HOSPITAL ISSUES IN THE MEDICARE PROGRAM

Subcommittee on Health
House Committee on Ways and Means Hearing

Testimony by
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We are very grateful to the House Way and Means Committee, Subcommittee on Health for closely examining current issues related to hospitals and Medicare, particularly the "two-midnight" rule and hospital observation status.

Connecticut's Legislative Commission on Aging is the non-partisan, public policy office of Connecticut's General Assembly devoted to preparing Connecticut for a significantly changed demographic and enhancing the lives of the present and future generations of older adults. For over twenty years, we have served as an effective leader in statewide efforts to promote choice, independence, empowerment and dignity for Connecticut's older adults and persons with disabilities.

CT's Legislative Commission on Aging has been following this issue closely, primarily through the work of our partners and national experts on this issue, The Center for Medicare Advocacy, who has filed a class-action lawsuit to challenge this practice.

As you are aware, increasingly hospital patients are finding they have been in the hospital under "Observation Status" even though they have been cared for in a hospital for many days. These patients have been treated in a regular hospital room, have been cared for by hospital doctors and nurses, just as you would expect of a stay in a hospital. However, they have not been officially "admitted". There are cases when an individual has been in hospital for as long as 14 days and yet was never officially admitted.

For Medicare beneficiaries the implications are especially jarring. According to Medicare benefit rules, these patients on observation status are considered "outpatient" and will not have access to the same Medicare benefits as someone who is considered "inpatient".

The patient on Medicare in observation status will have to pay co-pays for doctor visits and testing and also have to pay for routine drugs they may take for chronic conditions

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(like high blood pressure and diabetes). Additionally, if the patient is discharged to a skilled nursing facility (SNF) for rehabilitation, the care they receive in the SNF will NOT be covered because they have not met the 3-day inpatient hospital stay requirement. The patient is then responsible for the cost of SNF care. According to Connecticut's Office of Policy and Management, in Connecticut, the average daily cost of nursing facility care is \$390/day.

Further concerning is that this practice - of Medicare beneficiaries entering the hospitals as observation patients - is on the rise, according to Kaiser Health News. The number increased by 69% in five years, to 1.5 million people nationally in 2012.

Additionally, Medicare does not require hospitals to notify patients about their status. Many times, patients believe they are inpatient and do not realize the potential effects to the Medicare benefits. We are grateful to Connecticut's General Assembly for recently passing legislation requiring hospitals to provide written and oral notification to patients of their status within 24 hours of "admittance". Yet, more can and needs to be done.

This growing problem can be fixed by Congress by **enacting H.R. 1179 and S. 569, the Improving Access to Medicare Coverage Act of 2013**. Very simply, these identical bipartisan bills would count all the time hospitalized toward the three-midnight rule allowing access to the Medicare Part A benefit.

Thank you for this opportunity to provide this testimony and thank you for examining this critical issue to older adults in Connecticut and across the country.