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To: Waysandmeans.submissions@mail.house.gov

Re: Hearing "Current Hospital Issues in the Medicare Program"

We are writing you on behalf of the Kirkland Senior Council and Bellevue Network on Aging regarding the critical problems and confusion created by the extensive use of Observation Status for our Medicare seniors. As advisory groups established by Kirkland and Bellevue, we study, review, evaluate, and make recommendations on matters affecting older adults in our respective jurisdictions.

We are concerned about the increasing use of observation status and the burden it places on Medicare beneficiaries. No matter the length of stay in the hospital, without a three night inpatient stay, frequently needed Skilled Nursing Facility (SNF) follow-up is the private pay responsibility of the individual. Moreover, a patient on observation status is assessed the co-pays for each procedure or test while in the hospital even though an inpatient in an adjacent bed receiving the same tests, will have them covered by Medicare. In addition, while Medicare generally pays for all medications of hospital inpatients, patients under observation status often face large bills due to lack of Part D coverage, rejection of coverage by their pharmacy plan, required co-pays and/or the high rate of medication charges by the hospital pharmacies.

Our area hospitals are expressing their frustration that patients are confused and angry at the hospitals. The hospitals believe in many cases they have no choice but to classify patients as observation status because of the possible accusation of fraudulent admissions, the extraordinary costs they face with the recovery audit contractor (RAC) system, and their desire and need to maintain patient care and patient satisfaction standards.

The Kirkland Senior Council and Bellevue Network on Aging have discovered numerous cases of hardship and confusion experienced in the observation system. We are seeing numerous incidents where patients return home after an observation stay only to be returned to the emergency department or require hospital readmission multiple times. One patient was recently sent to the Emergency Department six times and placed on observation for short stays before being admitted as an inpatient for three nights and then sent to a SNF.

The following are three recent cases that demonstrate some of the problems we have encountered:

1. On November 3, 2013 a 100 year old female fell and was admitted late evening to the hospital with a fractured pelvis. She was initially conservatively classified as observation status, awaiting assessment by the Utilization Review staff, who the next morning determined she qualified for inpatient status. After a three night stay at the hospital, a social worker arranged for Medicare-covered discharge to a SNF on November 6. Only after several days at the SNF was the patient advised the first night hospital admission was on observation status. By the time this confusion was discovered, she had incurred SNF expenses in excess of \$20,000. Patient was then moved to a lesser cost setting. She has now applied for Medicaid coverage because of the extraordinary expenses draining her funds.
2. In May 2013 a 73 year old female went to the hospital with severe confusion. The medical team initially thought patient was psychotic but after testing determined she had a stroke causing right-sided weakness. She had a history of TIAs and diabetes. She had been hospitalized for five days when the hospital social worker discussed discharge plans recommending a SNF stay for PT, OT and speech therapies. At that time the patient was advised she had been in observation status the entire five days and would have to pay privately at the SNF. She was transferred to a local SNF where she exhausted her savings.
3. On October 25, 2013 an 89 year old female was transported by ambulance to an Emergency Department after a fall. When the daughter arrived at 11:30 p.m. the patient was in a treatment room. Medical staff advised she likely had a hip fracture and were waiting for X-rays. She was operated on the next morning and discharged to a SNF on Monday, October 28 after a three-night hospital stay. She was discharged from the SNF on January 2. At no time was any mention made at either the hospital or the SNF that she had not met the Medicare eligibility requirement. In February she was advised Medicare had denied coverage because her first late night treatment at the hospital was observation status. The hospital administration admitted errors were made but stated they were unable to make a change in the admission status. The patient's out-of-pocket expenses at the SNF exceeded \$40,000. After exhausting all remedies with the hospital and SNF, an appeal was sent to Noridian.

We recommend passage of HR 1179/S 569 to allow all nights of an observation patient's hospital stay count toward SNF stay when necessary for safe patient care.. Elimination of the three day inpatient requirement in order to receive SNF care would also solve the problem. While these bills do not address all problems created by observation status, they certainly address a major need for appropriate medical care for our Medicare seniors.

Thank you for the opportunity to express our concern about the impact of observation status.

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