

**Final Comments for Acute Inpatient Services versus Observation (Outpatient) Services  
(HOSP-001) DL32222**

**Comment:**

A CAC provider asked what determines the need for a hospital admission vs. a hospital observation admission.

**Response:**

The physician treating the patient determines the level of health care necessary. An acute inpatient admission is necessary when the patient's severity of illness and intensity of medical services can only be performed in an inpatient setting.

**Comment:**

A question was asked if there is a difference in payment for the hospital between the outpatient observation admission and the acute inpatient hospital admission.

**Response:**

The inpatient admission rate is based on DRG (Diagnosis Related Groups) and is much higher than a hospital observation admission.

**Comment:**

WPS Medicare was asked to clarify what would constitute the "rare" circumstances that would necessitate observation beyond 48 hours. Patients are asking for specifics and appealing the hospital's decision to give pre admission Notices of Non coverage.

**Response:**

Rare circumstances necessitating hospital outpatient observational care beyond 48 hours is always determined by the patient's physician. CMS states in Publication 100-02, Chapter 6, §220.5;

*In only rare and exceptional cases do reasonable and necessary outpatient observation services span more than 48 hours.*

The WPS Medicare policy explains outpatient observational services as follows:

When the physician determines the patient is appropriate for outpatient observation services, the patient is considered an outpatient. An outpatient observation bed is defined as an alternate level of health care comprising short-stay encounters for patients who require close nursing observation or medical management. It is an area where the patient is observed and assessed following surgery, during treatment, or to determine a need to be admitted to the hospital as an inpatient. This may take up to or even longer than 24 hours at which time a decision is required whether to send the patient home or admit the patient to the hospital

**Comment:**

A request to add language that includes not just complications and adverse reactions but language related to safety concerns for discharge post procedure due to specific situation(s) such as, age, co morbid conditions and the lack of supportive care at home was evaluated.

**Response:**

The policy clearly states that;

Outpatient observation care is only medically necessary when the patient's current medical condition requires outpatient observational hospital services, or when there is a significant risk of health deterioration in the immediate future such that continued observation in a non-hospital environment is inadvisable.

Therefore, it is expected that the physician's documentation will support any significant risk of health deterioration if discharged home. Thus, WPS Medicare will not add language related to safety concerns to this LCD. The policy further states:

Admissions to the hospital for either acute inpatient hospital services or outpatient observation hospital services are expected to demonstrate the consistency between the physician order (physician intent), the services actually provided (inpatient or outpatient) and the medical necessity of those services, including the medical appropriateness of the inpatient or observation stay

**Comment:**

A nurse managed care coordinator commented that physicians often do not document why they chose outpatient observation or acute inpatient care. She added medical documented does not always reflect if the status is observation or inpatient and that when questioned, physicians will often tell us that they did not learn this in medical school nor do they think that knowing the difference between the two levels of care helps the patient in any way other than to serve a billing function. Thus, hospitals have case managers that are experts in levels of care, hospital criteria and function as advisers to physicians.

**Response:**

You are correct that hospitals employ experts in determining levels of care and hospital protocols and criteria. The hospital Condition of Participation (CoP) requires hospitals to have a utilization review plan to assure a formal evaluation of coverage, medical necessity, appropriateness of health care services and individual treatment plans. WPS Medicare encourages all providers to incorporate these managers early in the process of acute inpatient hospital admissions or outpatient observation admissions.

**Comment:**

A nurse manager commented that ultimately we would save a lot of money by eliminating the whole outpatient observation status. In Massachusetts, the Mass Hospital Association has filed a bill to at least require consistency with definition and hours of acceptable observation across all payers.

**Response:**

Suggestions for eliminating outpatient observation status are to be directed by the person making the suggestion to CMS and should be based on scientific data and published studies supporting the request.

**Comment:**

A nurse managed care coordinator asked that WPS Medicare evaluate the Notice of Non coverage process/form and require that anyone admitted to outpatient observation is given a notice about what outpatient observation means including the limitations of coverage.

**Response:**

Instructions for correct use regarding the use of the Advance Beneficiary Notice (ABN) is available on the CMS Website at [http://www.cms.gov/BNI/01\\_overview.asp](http://www.cms.gov/BNI/01_overview.asp)  
The following is an excerpt from CMS Internet Only Manual (IOM); Publication 100-02, Chapter 6, §220.5:

*If a hospital intends to place or retain a beneficiary in observation for a noncovered service, it must give the beneficiary proper written advance notice of noncoverage under limitation on liability procedures (see Pub. 100-04, Medicare Claims Processing Manual; Chapter 30, "Financial Liability Protections," §20, at <http://www.cms.hhs.gov/manuals/downloads/clm104c30.pdf> for information regarding Limitation On Liability (LOL) Under §1879 Where Medicare Claims Are Disallowed).*

It is a Medicare expectation that all hospitals have a process that is in compliance with CMS regulations regarding non covered services.

**Comment:**

A physician and a hospital health care manager found ambiguous the following statement listed under the heading Acute Inpatient Admission:

The term "admit" refers to the decision by the physician to provide inpatient care.

**Response:**

WPS Medicare agrees and has amended the policy to state the following:

**Indications and Limitations of Coverage and/or Medical Necessity**

The determination of inpatient status or outpatient observation services for any given patient is specifically reserved to the admitting physician. The quality of care should be the same whether the Medicare patient is placed in outpatient observation or inpatient care. There are two main differences between the types of hospital services. First, the level of resources the beneficiary requires, and second, the billing and reimbursement method utilized by the facility. It is the difference in cost that is important to the patient. Typically, one is admitted to a hospital to receive a service that cannot be provided as an outpatient.

The term "admit" is a non-specific term and can be used in conjunction with inpatient and outpatient observation services. An order simply documented as "admit" will be treated by WPS Medicare as an inpatient admission. A clearly worded order such as "inpatient admission" or "place patient in outpatient observation" will ensure appropriate patient care and prevent hospital billing errors.

**Acute Inpatient Admission:**

Acute admission is defined as a level of health care in which the patient's severity of illness and intensity of service can only be performed in an inpatient setting.

The term "admit" refers to the decision by the physician to provide inpatient care.

Acute inpatient hospital care must be supported by both diagnosis and treatment plan.

**Comment:**

A provider and a few hospital managers found disrespectful the statement that said  
Subsequent information may support a physician's "hunch" that the patient needed inpatient care.

**Response:**

WPS Medicare never intended any disrespect and extends our sincere apologies to our provider community, along with a thank you to those who brought this to our attention. We have amended the sentence to state;  
Subsequent information may support a physician's decision that the patient needed inpatient care

**Comment:**

A request to add inpatient, under the heading Diagnostic Testing, as possibly appropriate due to an adverse reaction was evaluated.

**Response:**

WPS Medicare agrees that an adverse reaction may require inpatient or outpatient observation. Therefore the sentence found under the section Diagnostic Testing has been amended to state:

However, when a patient has a significant adverse reaction (beyond the usual and expected response) as a result of the test that requires further monitoring, outpatient observation or inpatient hospital services may be reasonable and necessary.

**Comment:**

A physician commented that the policy is contradictory in the use of the term admit. He cited the statements (1) The term "admit" refers to the decision by the physician to provide Inpatient care; and (2) Medical Necessity for Observation Admissions- The medical necessity of all observation admissions must be documented in the patient's medical record. It was suggested that WPS Medicare remove the word admissions wherever the word observation appears.

**Response:**

WPS Medicare appreciates this suggestion and has removed the word admission wherever the word observation appears.

**Comment:**

A provider asked that the section Predictability of Complications be better defined.

**Response:**

WPS Medicare evaluated this request and determined it to be non-specific. Therefore, WPS Medicare will not change the information found under the header Predictability of Complications at this time.

**Comment:**

Reviewers identified typographical and grammar errors.

**Response:**

WPS Medicare has corrected all typographical and grammar errors identified.

**Comment:**

Many reviewed this LCD and sent comments of appreciation for the new LCD and the information it provides.

**Response:**

WPS Medicare thanks all who took time from their busy schedules to review the Acute Inpatient Services versus Observation (Outpatient) Services LCD.