

Two-Midnight Rule Update

June 30, 2016

Medicare and Medicaid Services (CMS) on August 19, 2013, the two-midnight rule provided that an inpatient admission generally would only be payable under Medicare Part A if: (1) the admitting practitioner had an expectation, documented in the medical record, that the patient would require an inpatient hospital stay that would span two or more midnights; or (2) the admission was for a surgical procedure designated by CMS as inpatient-only. At the time, CMS anticipated the two-midnight rule would result in increased inpatient admissions, and thus reduce its inpatient prospective payment system (IPPS) payments by 0.2 percent to offset its anticipated, increased costs from the anticipated, increased inpatient admissions. In 2014, a group of hospitals challenged the 0.2 percent IPPS payment reduction in federal court. On September 21, 2015, a federal judge ordered CMS to reconsider the payment reduction due to procedural deficiencies in CMS's 2013 rulemaking process. On November 13, 2015, CMS revised the two-midnight rule to specify that an inpatient admission that did not meet the then-existing criteria could still be payable under Medicare Part A if it is supported by the admitting practitioner's clinical judgment and the medical record. CMS did not, however, address the 0.2 percent IPPS payment reduction. On April 27, CMS proposed to (1) eliminate the 0.2 percent IPPS payment reduction, and (2) implement a 0.6 percent IPPS payment increase for the fiscal year ending 2017. CMS did not, however, propose any new revisions to the two-midnight rule itself.

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