

NOTICE Act Scheduled to Take Effect This Fall

August 23, 2016



The Final Rule of the Notice of Observation Treatment and Implications for Care Eligibility Act of 2015 (Pub. L. 114-42) is scheduled to become effective October 1, 2016. Thereafter, hospitals and Critical Access Hospitals (collectively, “Hospitals”) are required to provide written notice to individuals entitled to Medicare benefits if the patient receives outpatient observation services for more than 24 hours. Notification, and a corresponding oral explanation, must be provided no later than 36 hours after outpatient observation services are initiated. Hospitals must use the Medicare Outpatient Observation Notice (MOON) to provide standardized written notice. The MOON explains the individual is an outpatient receiving observation services, and is not an inpatient of a Hospital. It includes the reasons(s) the patient is being classified as an outpatient receiving observation services, and explains the implications of being an outpatient receiving observation services, the most significant being cost-sharing responsibility and the impact on post-hospitalization eligibility for coverage of skilled nursing facility services. The MOON must either be signed by the individual receiving outpatient observation services or by a person acting on the patient’s behalf. If a signature is refused, the MOON can be signed by the Hospital staff member who presented it to the patient. Hospitals must retain a signed copy of the MOON; however, they are permitted to determine the method of storage. The Centers for Medicare and Medicaid Services (CMS) will facilitate effective monitoring and enforcement of all of these requirements. Of note, there is no impact or change to the current requirements and

guidance related to the 2 midnight rule previously issued by CMS. The Final Rule estimates the annual cost burden estimate of implementation at approximately \$3,825.81 per Hospital.

Related Practices

[Health Care](#)

Related Industries

[Health Care](#)

©2024 Carlton Fields, P.A. Carlton Fields practices law in California through Carlton Fields, LLP. Carlton Fields publications should not be construed as legal advice on any specific facts or circumstances. The contents are intended for general information and educational purposes only, and should not be relied on as if it were advice about a particular fact situation. The distribution of this publication is not intended to create, and receipt of it does not constitute, an attorney-client relationship with Carlton Fields. This publication may not be quoted or referred to in any other publication or proceeding without the prior written consent of the firm, to be given or withheld at our discretion. To request reprint permission for any of our publications, please use our Contact Us form via the link below. The views set forth herein are the personal views of the author and do not necessarily reflect those of the firm. This site may contain hypertext links to information created and maintained by other entities. Carlton Fields does not control or guarantee the accuracy or completeness of this outside information, nor is the inclusion of a link to be intended as an endorsement of those outside sites.