Beyond Appeals

Proven Success Strategies Using PAs

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Overview

- Lessons learned from appeals experiences
  - Most recent areas of auditor focus – *How are the regulations and sub-regulatory guidance interpreted by medical reviewers?*
  - Engaging PA before appeals become necessary

Probe and Educate

- In accordance with the Medicare Access and CHIP Reauthorization Act of 2015, Probe and Educate will continue until September 30, 2015, and CMS will continue to prohibit Recovery Auditors from conducting inpatient hospital patient status reviews for dates of admission occurring between October 1, 2013 and September 30, 2015.

Probe and Educate
Admissions On or After October 1, 2013

- Generally speaking, IP stays spanning 0-1 midnight following formal IP admission will be the focus of review for patient status.

Probe and Educate
Admissions On or After October 1, 2013

- Cases where IP stays lasting less than 2 midnights are generally appropriate for Part A payment:
  - IP only procedures
  - Mechanical Ventilation
  - If an unforeseen circumstance results in a shorter stay than the physician's reasonable expectation of at least 2 midnights. *Examples*:
    - Death
    - Election of hospice care
    - Transfer to another hospital
    - Departure AMA
    - Clinical improvement
      - **Importance of documentation and hearing testimony:** ***Per FAQ, "Review contractors' expectations for sufficient documentation will be rooted in good medical practice."***

Probe and Educate
Admissions On or After October 1, 2013

- MACs may still review Part A IP claims crossing 2 midnights following the formal admission for purposes unrelated to patient status:
  - (1) To ensure the services provided were medically necessary;
  - (2) To ensure that the hospitalization was medically necessary;
  - (3) To validate provider coding and documentation;
  - (4) When a CERT Contractor is directed to review such claims;
  - (5) If directed by CMS or other entity to review such claims.

Per the Final Rule at p. 50951: "We note that it was not our intent to suggest that a 2-midnight stay was presumptive evidence that the stay at the hospital was necessary; rather, only that **if** *the stay was necessary, it was appropriately provided as an inpatient stay… [S]ome medical review is always necessary…"*

- Claims with evidence of systemic gaming, abuse or delays in the provision of care in an attempt to surpass the 2 midnight presumption could warrant medical review at any time. *See* CR 8508, Transmittal 1315, 11/15/2013.

Probe and Educate
Admissions *Before* October 1, 2013

We have witnessed a trend of demand letters being generated in 2015 for **3 day IP hospital stays** for joint procedures with admissions *before* October 1, 2013, which were denied based on patient status (not MN of procedure/hospitalization).

–**Redetermination decision**:

The records did not support more intensive monitoring or extended nursing or physician care that would require an inpatient stay. Observation hospital care rather than inpatient admission was

appropriate for

–**Reconsideration decision:**

2013, for continued physical therapy. Based on the severity of illness and intensity of care, Medicare's criteria for an inpatient admission have not been met. This type of surgical procedure and postoperative care could have been safely and effectively performed on an outpatient basis. The admitting provider could have reasonably anticipated that the patient's problems could have been safely managed in an outpatient setting within a short time, such as 24-48 hours or a time frame.

Patients who enter the hospital with a known diagnosis for a specific minor surgical procedure or other treatment that is expected to keep them in the hospital for only a few hours (less than 24) are considered outpatients regardless of the hour they came to the hospital, whether they used a bed, and whether they remained in the hospital past midnight. [CMS IOM, Publication 100-02, Medicare Benefit Policy Manual, Chapter 1, Section 10] Therefore, payment cannot be allowed.

Probe and Educate
Regulations / CMS Sub-regulatory Guidance

- 42 C.F.R. Section 412.3
- 2014 Inpatient Prospective Payment System ("IPPS") Final Rule: http://cms.gov/Medicare/Medicare-Fee-for-Service-Payment/AcuteInpatientPPS/FY-2014-IPPS-Final-Rule-Home-Page-Items/FY-2014-IPPS-Final-Rule-CMS-1599-F-Regulations.html
- CMS Inpatient Hospital Reviews: http://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Medicare-FFS-Compliance-Programs/Medical-Review/InpatientHospitalReviews.html
- Guidance on the Physician Order and Physician Certification for Hospital Inpatient Admissions: http://cms.gov/center/provider-type/hospital-center.html

Redetermination Decision Example

Medicare coverage for inpatient care is available when certain guidelines are met. This review was completed by our medical staff: presented for a fall resulting in intercranial bleed. She was admitted to intensive care and repeated scans revealed the bleed was stable. She was discharged the next day with follow up in place.

The physician documentation did not support the determination whether or not clinical presentation, prognosis, and expected treatment supports the expectation of the need for hospital care spanning two or more midnights as opposed to care outside of a hospital facility such as a skilled nursing facility or other less intensive services.

Reconsideration Decision Example

Payment through Part A cannot be provided because although the expectation of a two midnight stay was reasonable, the beneficiary's total time in the hospital from start of care to discharge receiving medically necessary care did not exceed two midnights. In the absence of a qualifying diagnosis (new onset mechanical ventilation), or a qualifying condition (unanticipated early recovery, transfer to or from another acute care facility, the patient's elopement against medical advice, initiation of hospice care, or patient death), payment for a hospital stay falling short of two midnights cannot be made through Part A.

Using PA To Avoid Denials

- PA should be active participant educating other physicians regarding admission requirements
- Internal review IP stays that do not cross 2 Midnights
  - As appropriate, document concurrence with IP admission including rationale for expected LOS
- PA must have open lines of communication with those reviewing denials and drafting appeals to guide compliance efforts

Using PA To Avoid Denials

Progress Notes

DOCUMENT NAME: Physician Note
RECEIVED DATE/TIME: 7/10/2014 21:59 PDT
RESULT STATUS: Auth (Verified)
PERFORM INFORMATION:
SIGN INFORMATION:

Physician Advisor Review

Patient: **MRN: 28-89-32** **FIN: 39279716**
Age: **71 years** Sex: **F** DOB: **12/28/1942**
Associated Diagnoses: **None**
Author:

REFERRING CM:Cindy
REFERRAL REASON: One MN INPT stay review
P.A. CLINICAL REASON SUPPORTING DETERMINED STATUS:Admitted with afib and NSVT - did not have rapid conversion on medications to NSR so admitted for continued antiarrythmic treatments and further workup. Given patient spontaneous conversion to SNR during first day and patient refusal to consider any other treatment other than oral beta blocker, patient felt appropriate for discahrge with close cardiology f/up
STATUS DETERMINATION:INPT appropriate

This physician advisor secondary status review is being performed by a representative physician member of the Utilization Management Committee in accordance with the utilization management plan of this hospital and CMS conditions of participation.

Electronically Signed By:

On 07/11/14 13:50
Co Signature By:
Proxy Signature By:
Modified Signature By:

Using PA To Avoid Denials

Progress Notes

DOCUMENT NAME: Physician Note
RECEIVED DATE/TIME: 7/10/2014 21:54 PDT
RESULT STATUS: Auth (Verified)
PERFORM INFORMATION:
SIGN INFORMATION:

Physician Advisor Review

Patient: **MRN: 52-60-02** **FIN: 39289202**
Age: **96 years** Sex: **F** DOB: **02/07/1918**
Associated Diagnoses: **None**
Author:

REFERRING CM:Cindy
REFERRAL REASON:One MN INPT stay review
P.A. CLINICAL REASON SUPPORTING DETERMINED STATUS: Admitted for cellulitis without outpatient trial , with comment on admission that "leg already starting to improve from Abx in ED"
STATUS DETERMINATION:INPT inappropriate

This physician advisor secondary status review is being performed by a representative physician member of the Utilization Management Committee in accordance with the utilization management plan of this hospital and CMS conditions of participation.

Electronically Signed By:

On 07/10/14 21:58
Co Signature By:
Proxy Signature By:
Modified Signature By:

Using PA To Counter Denials

- PA participation in peer-to-peer discussion, ALJ hearings
  - As noted in June 2015 Appellant Forum, expect increased contractor participation in ALJ hearings, including participation as "party," granting the contractor rights to submit position papers, **cross-examine witnesses**, etc.
    - For 0-1 Midnight IP admissions, expect the focus of the discussion to be whether or not the admitting physician's expectation with respect to LOS was reasonable.

QUESTIONS?

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