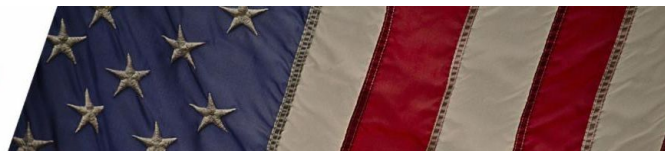


THE LIVANTA CLAIMS REVIEW ADVISOR



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Short Stay Review – Further Evaluation and Treatment

The Two-Midnight Rule

The Centers for Medicare & Medicaid Services (CMS) implemented the Two-Midnight Rule in Fiscal Year (FY) 2014 to assist in determining when an inpatient admission would be appropriate for payment under Medicare Part A (inpatient hospital services). Under the Two-Midnight Rule, an inpatient admission is generally appropriate for Medicare Part A payment if the physician (or other qualified practitioner) admits the



patient as an inpatient based upon the expectation that the patient will need hospital care that crosses at least two midnights and the medical record supports that expectation. This Rule outlines two medical review policies: (1) a two-midnight presumption; and (2) a two-midnight benchmark.

In the FY2016 Outpatient Prospective Payment System (OPPS) Final Rule, CMS amended the Two-Midnight Rule and clarified that Medicare would allow exceptions to the two-midnight benchmark to be determined on a case-by-case basis by the physician responsible for the care of the patient, subject to medical review. CMS continues to expect that stays under 24 hours would rarely qualify for an exception to the two-midnight benchmark.

The Two-Midnight Rule does not apply to procedures on the Inpatient-Only List.

Hospital Admission and Part A Payment

In assigning inpatient status to Medicare patients, one must carefully consider the Two-Midnight Claim Review Guideline issued by the Centers for Medicare and Medicaid Services (CMS), in particular, Steps 4 and 6. The Two-Midnight Rule presumes that inpatient stays that span two midnights qualify for payment under Medicare Part A. Conversely, the Two-Midnight Rule indicates that if the patient is expected to need less than two midnights of care in the hospital, the services furnished should generally be billed as outpatient services. The exceptions to this are outlined in the Two-Midnight Rule Claim Review Guideline.

Further Evaluation and Treatment



Livanta is charged with reviewing Medicare admissions that span less than two midnights of hospital care. Documentation in the medical record frequently indicates that inpatient admission is necessary for “further evaluation and treatment” or some equivalent. Often, evaluation of these patients in the Emergency Department (ED) has been negative but a potential serious

event such as stroke or acute coronary syndrome (ACS) cannot be completely excluded without additional testing or further observation.

Meeting Step 4 of the Two-Midnight Rule Claim Review Guideline

When determining whether an admission will satisfy Step 4 (i.e., the two-midnight expectation), the first question to ask is whether the period of evaluation and further treatment is likely to encompass two midnights from the patient’s initial presentation. Several factors impact this decision, including whether one midnight has already passed at the time of the inpatient admission order. If the patient has not passed one midnight at the time of the inpatient admission order, then the expectation of two midnights of observation or testing would be needed to meet Step 4 requirements. For stable patients who have already had extensive evaluation in the ED, this expectation is not met. However, if the patient is admitted after having already passed one midnight, then a shorter stay after the inpatient admission order can be expected and Step 4 is more likely to be met, although this is not an absolute. The provider should consider how long they would plan to observe the patient and how extensive the additional testing is likely to be.

The second factor is the patient’s status at the time of the inpatient admission order. Patients who are stable or have significantly improved at the time of the order are less likely to require prolonged observation than those who have shown minimal response to therapy in the ED and whose treatment is still evolving. Similarly, the amount of additional diagnostic testing planned will impact the length of stay.

When choosing to admit the patient to inpatient status, Livanta recommends that the provider documentation be specific about the length of time a patient will be observed or the diagnostic tests that will be ordered. The term “further evaluation and treatment,” or its

equivalent does not provide sufficient support for a two-midnight expectation.

Meeting Step 6 of the Two-Midnight Rule Claim Review Guideline

There are patients who satisfy the requirements of Step 6, and thus are eligible for Part A payment, but would not be expected to require a two-midnight stay. The rationale supporting inpatient admission for these patients is the risk of a serious adverse event or the need for services that require inpatient care. When these patients are admitted, the provider documentation should not default to the “two-midnight expectation” but should describe the concern for a specific event or the reason inpatient care is required.

“Rule Out” Scenarios – Questions to Ask

During their reviews, Livanta has encountered hospital admissions to “rule out” an adverse event such as myocardial infarction (MI) or stroke. While these admissions can be justified, many will neither require a two-midnight stay nor inpatient care due to concern for a serious adverse event. Often, symptoms have resolved or markedly improved prior to or during the ED encounter, and diagnostic testing in the ED has reduced the likelihood of a diagnosis associated with an adverse event but not completely excluded it (e.g., normal troponins, negative computed tomography (CT) of the head). In these cases, observation or testing is needed to exclude a serious diagnosis, although the likelihood of the diagnosis is low.



In these situations, the application of the suggestions outlined above will facilitate the accurate assignment of patient status.

- Will the period of observation extend the patient’s stay past two midnights?
- Will completion of the diagnostic evaluation require two midnights of total care?
- Do the additional services planned require inpatient care?

Asking and answering each of these questions and documenting those answers in the record is the key to improving compliance with the requirements of the Two-Midnight Rule.

About Livanta

Livanta is the Medicare Beneficiary and Family Centered Care-Quality Improvement Organization (BFCC-QIO) conducting post-pay fee-for-service claim reviews of acute care inpatient hospitals, long-term acute care hospitals, and inpatient psychiatric facilities to determine the appropriateness of Part A payment for short stay inpatient hospital claims. These claims are reviewed in accordance with the Two-Midnight Rule published in FY 2014 Hospital Inpatient Prospective Payment System (IPPS) Final Rule CMS-1599-F, as revised by CMS-1633-F.

CMS issued the following BFCC-QIO Two-Midnight Claim Review Guideline that graphically depicts the tenets of the Two-Midnight Rule. Livanta utilizes this Guideline when making payment determinations for SSR claims.

CMS Two-Midnight Claim Review Guideline
<https://www.cms.gov/sites/default/files/2022-04/BFCC-QIO-2-MidnightClaimReviewGuideline.%20508.pdf>

Questions?

Should you have questions, please email ClaimReview@Livanta.com, or visit the claim review website for more information:

<https://www.livantaqio.cms.gov/en/ClaimReview/index.html>

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