

The Unintended Consequences of Medicare Observation Status

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Abstract

Background: Observation status is a classification for Medicare beneficiaries that are billed as outpatients for a hospitalization. This has implications for out-of-pocket expenses for patients as well as their access to post-acute care. *Methods:* This is a review of 3 published studies performed by our research team to examine the potential unintended consequences of the current Medicare policies related to cost-sharing and post-acute care coverage for patients hospitalized under observation status. Our study questions were as follows: 1) Is there an unmet need for post-acute care among Medicare observation patients 2) Which patients are at highest risk for high out-of-pocket costs related to observation care 3) Is cost-sharing for observation care associated with health care –related financial strain and health care rationing? *Results:* Our studies demonstrated that Medicare observation policy could be associated with a number of unintended consequences including decreased access to necessary post-acute nursing care, increased out-of-pocket costs, particularly for low -income patients, increased concerns related to the cost of care, and inadequate patient understanding of observation policies. *Conclusions:* Patients and providers should be aware of the current policies surrounding observation care. Patients should be informed of their observation status and should have access to case managers and social workers to help them navigate and understand the implications of their observation hospital stay.

Introduction

Observation status is a classification for Medicare beneficiaries that are billed as outpatients for a hospitalization. With a few exceptions, since 2013, the Centers for Medicare and Medicaid Services have applied observation status to patients with an anticipated length of stay of less than 2 midnights in the hospital. In contrast, it is recommended that patients who are expected to require greater than 2 midnights of care in the hospital be admitted under inpatient status.

This has implications for out-of-pocket expenses for patients as well as their access to post-acute care. Whereas hospital inpatients are billed through Medicare Part A, patients hospitalized under observation status are billed through Medicare Part B. While Medicare Part A covers most of the care in the hospital as well as post-acute care in a skilled nursing facility after the hospital stay, Medicare Part B, requires a co-pay of 20% for all hospital and physician services and does not cover post-acute care after hospitalization (see Figure 1). Prior work has demonstrated that out-of-pocket costs for observation care can be high¹ and anecdotally, the limited access to post-acute care afforded under Medicare Part B can lead to unsafe hospital discharge plans.

Figure 1. Differences in Coverage for Medicare Beneficiaries Hospitalized Under Inpatient vs. Observation Status

	INPATIENT	OBSERVATION
Anticipated Length of Stay	≥ 2 Midnights	< 2 Midnights
Post-Acute Care Coverage	20 days Skilled Nursing Facility	None
Out-of-Pocket Costs	<ul style="list-style-type: none"> Part A Deductible \$1,316 20% copay for physician services 	<ul style="list-style-type: none"> Part B Deductible \$183 20% copay for hospital services 20% copay for physician services Hospital charges for routine maintenance medications

This paper is a review of three published studies that our research team conducted to examine the potential unintended consequences of the current Medicare policies related to cost-sharing and post-acute care coverage for patients hospitalized under observation status. Our study questions were as follows:

- 1) Is there an unmet need for post-acute care among Medicare observation patients?
- 2) Which patients are at highest risk for high out-of-pocket costs related to observation care?
- 3) Is cost-sharing for observation care associated with health care –related financial strain and health care rationing?

Summary of Data

Question 1: Is there an unmet need for post-acute care among Medicare observation patients?

Because Medicare beneficiaries hospitalized under observation status are covered by Medicare Part B, they do not have coverage for care in a skilled nursing facility after the hospital stay. Without insurance coverage, access to such care requires an average out-of-pocket payment of more than \$10,000 per beneficiary for a typical stay.² Anecdotally, this high out-of-pocket cost has been a deterrent for observation patients who need post-acute rehabilitation services but cannot not afford it. Our research team generated data to validate this assumption.

We conducted an observational study using electronic health record data from ChristianaCare to determine whether there was an unmet need for post-acute skilled nursing care among Medicare observation patients and whether the need for such care was associated with adverse outcomes.³ Data were obtained for all Medicare beneficiaries hospitalized under observation status in the year 2013. Out of 1,323 patients, we found that less than 1% (0.83%) of patients were discharged to post-acute rehabilitation. However, when we performed a chart review of the patient's physical therapy evaluations, we found that 4.4% were recommended for post-acute rehabilitation. The adjusted mean length of stay was longer for patients with a recommendation for rehabilitation compared to patients with no physical therapy needs (75.9 hours vs 46.8 hours, $p < 0.001$) and 30-day hospital revisit rate was twice as high (52.9% (9/17) vs. 25.4% (30/118), $p = 0.037$).

In conclusion, our study found that the need for post-acute skilled nursing facility services was 5-6-times higher than the actual utilization. Additionally we found that patients who needed such rehabilitation but were discharged home instead were more likely to have adverse outcomes. The full results of this study were published in the Journal of Hospital Medicine.³

Question 2: Which patients are at highest risk for high out-of-pocket costs related to observation care?

We next examined which patients might be at risk of increased cost-sharing and out-of-pocket costs related to observation status.⁴ Since low-income Medicare beneficiaries are at increased risk for hospitalization⁵⁻⁷ and burdened by high out-of-pocket costs,⁸ we were concerned that such beneficiaries may also be at increased risk for high utilization and out-of-pocket costs related to observation care.

We conducted a retrospective, observational analysis of Medicare Part B claims and US Census Bureau data from 2013 to examine whether risk for high utilization and high out-of-pocket expense related to observation care was associated with the socioeconomic status of patients. To estimate socioeconomic status, beneficiaries were divided into quartiles representing census-derived poverty level, based on county of residence. The association between poverty quartile, high utilization of observation care, and high financial liability for observation care was evaluated. Of the 56,454,361 claims, there were 132,539 observation stays representing 67,641 unique Medicare beneficiaries. After multivariate adjustment, the risk of high utilization was higher for beneficiaries in the poor and poorest quartiles compared to those in the wealthiest quartile (AOR 1.21, 95% CI 1.13-1.31; AOR 1.24, 95% CI 1.16-1.33). The risk of high financial liability was higher in every poverty quartile compared to the wealthiest and was highest in the 3rd quartile which represented poor but not the poorest beneficiaries (AOR 1.17, 95% CI 1.10-1.24). Our findings suggest that low-income beneficiaries may pay a higher proportion of their income in out-of-pocket costs,^{8,9} and a higher dollar amount related to observation care compared to wealthier beneficiaries, even after adjusting for number of observation visits. The full results of the study were published in the American Journal of Medicine.⁴

Question 3: Is cost-sharing for observation care associated with health care – related financial strain and health care rationing?

We next examined whether cost-sharing and out-of-pockets expenses for observation care could be associated with financial strain and health care rationing among Medicare beneficiaries.¹⁰ Prior studies have demonstrated that health care related financial strain is common, particularly among low to middle-income Medicare beneficiaries and that higher copays and cost-sharing have led to rationing of a wide range of health services, particularly among low-income beneficiaries.¹¹⁻¹³ It was unclear whether cost-sharing related to observation care could impact behavior towards observation care in a similar way. To investigate this, we administered a 23-item survey to 144 Medicare beneficiaries receiving observation care at ChristianaCare to obtain data related to patient comprehension of Medicare observation policies, health services rationing, and the potential impact of observation cost-sharing on future medical-decision making. Our results demonstrated that less than 10% (8.8%) of surveyed beneficiaries understood the cost-sharing implications of Medicare observation status and that if hospitalized again under observation status, close to 1/3rd would request that their work-up be performed as an outpatient. Low-income beneficiaries were more likely to request outpatient completion of their workup (56.3% vs 43.8%), and more likely to consider leaving against medical advice if hospitalized under observation status again (100% vs 0%), though these trends were not statistically significant (p=0.30).⁴ The full results of the study were published in BMC Health Services Research.¹⁰

From an ethical and legal standpoint, Medicare beneficiaries are required to be made aware of the cost-sharing responsibilities of observation status.¹⁴ However, it is equally important that patients understand the information that they are provided. Our study implies that there are opportunities to improve patient comprehension of Medicare observation policies. It also raises concerns about how the potential cost burden of observation care may impact medical-decision making among Medicare beneficiaries. As observation hospitalizations continue to rise, it will be important to proactively identify and support beneficiaries at risk for significant health care cost burden.

Discussion

Our work has demonstrated that Medicare observation policy could be associated with a number of unintended consequences including decreased access to necessary post-acute nursing care, increased out-of-pocket costs, particularly for low-income patients, and increased concerns related to the cost of care that could potentially impact patient willingness to receive observation care in the future, all in the context of inadequate patient understanding of observation policies.

There have been a number of policy and advocacy efforts over the past few years to address issues related to post-acute care access and out-of-pocket costs, but thus far, no major policy changes have been made. For example, the Medicare Payment Advisory Commission (MEDPAC) has recommended that among patients who transition from observation status to inpatient status, time spent under observation status count towards their eligibility for post-acute care.¹⁵ However, these recommendations have not been accepted.¹⁶ Regarding out-of-pocket costs, there have been recommendations to limit out-of-pocket spending for Medicare beneficiaries from the legislature¹⁷ and the Office of the Inspector General¹⁸ however, no policy changes have been made to date.

In the interim, it is important that patients and providers be aware of the current policies surrounding observation care. By law, Medicare beneficiaries must be informed of their observation status within the first 36 hours of admission.¹⁴ In addition, patients should be provided educational materials from resources such as The Center for Medicare and Medicaid (www.medicare.gov) or The Center for Medicare Advocacy (www.medicareadvocacy.org) and have access to case managers and social workers who can help them navigate and understand the implications of their observation hospital stay.

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