

May 17, 2013

Marilyn B. Tavenner
Acting Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
Hubert H. Humphrey Building, Room 445-G
200 Independence Avenue, SW
Washington, DC 20201

Re: Medicare Program; Part B Inpatient Billing in Hospitals; Proposed Rule (CMS-1455-P).

Dear Acting Administrator Tavenner:

The American College of Physicians (ACP) appreciates this opportunity to comment on the above referenced Part B Inpatient Billing in Hospitals proposed rule. The ACP is the largest medical specialty society and second largest physician membership organization in the United States, representing 133,000 internal medicine physicians who specialize in primary and comprehensive care of adolescents and adults and medical students who are considering a career in internal medicine.

The College commends CMS for the proposal to allow inpatient facilities to rebill under Medicare Part B under circumstances in which a Part A inpatient claim for a hospital admission is denied by a Medicare review contractor because the inpatient setting was not determined to be reasonable and necessary --- although the actual services provided were determined to be reasonable and necessary. This change will allow these facilities to be reimbursed at a level closer to the actual cost of providing patient services than under the current regulations, and also may help address the problem of the increasing “protective” use of observation status by facilities to avoid potential inpatient admission denials. . Regarding this issue of observation status, the College recommends that CMS continue to closely monitor the use of this status to determine if further policy changes are required..

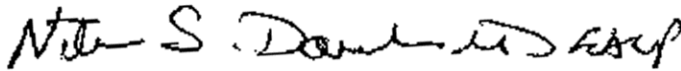
While the College supports the above proposed change, the issue of adequate beneficiary protections remains problematic. Under the proposed rule beneficiaries remain at risk for increased costs through Part B deductibles and coinsurance accrued under Part B rebilling as compared to their costs under a Part A billing, and will not meet the three-day inpatient requirement (and be responsible for related costs) for any subsequent Medicare skilled nursing facility (SNF) care received if billing is changed from Part A to Part B. These unexpected costs can be considerable, and will likely place many of the affected beneficiaries under significant financial stress. The College encourages CMS to include additional beneficiary protections in the final rule, which will negate or significantly limit these adverse financial consequences. At a minimum, any beneficiary who has stayed in the inpatient facility under inpatient or observation status for at least 3 days should be

considered as fulfilling the three-day SNF coverage requirement---regardless of the results of the RAC process.

The College is also aware that under the recently released CY 2014 Hospital Inpatient Prospective Payment proposed rule (CMS-1599-P), CMS took steps to clarify the related issue of inpatient admission criteria. The College applauds CMS for this clarification and will be submitting formal comments in response to the rule.

Please feel free to contact Neil Kirschner on our staff at nkirschner@acponline.org. or 202-261-4535 if you have any questions or require clarification regarding these submitted comments.

Respectfully,

A handwritten signature in black ink that reads "Nitin S. Damle, MD, FACP". The signature is written in a cursive, slightly slanted style.

Nitin Damle, MD, FACP
Chair, Medical Practice and Quality Committee