Background
In the fiscal year 2014 Inpatient Prospective Payment System (IPPS) Final Rule, the Centers for Medicare & Medicaid Services (CMS) instituted a “two-midnight” benchmark for providers. While CMS was issuing clarifying guidance on its new two-midnight policy, it discovered little known and unenforced language within the Critical Access Hospital (CAH) Conditions of Payment that limited an inpatient stay for CAH patients to 96 hours or less. For decades, CAHs have been following the Conditions of Participation that require that CAHs maintain an average length of stay for patients of 96 hours or less.

The Legislation
Eliminates the sentence within the CAH conditions of payment (42 U.S.C. § 1395f) that requires a physician certification that the beneficiary in a CAH inpatient setting is expected to be discharged or transferred to a hospital within 96 hours after admission to the CAH.

Why Important
• If this condition of payment is enforced by CMS, CAHs will no longer receive payment from CMS for medical services requiring a beneficiary stay of longer than 96 hours.
• CAHs typically maintain an annual average of 96 hours per patient. CAHs, however, offer some medical services that have standard lengths of stay greater than 96 hours. In those cases, a physician will be unable to reasonably certify the beneficiary’s stay will be less than 96 hours and the beneficiary will be forced to travel to an urban area to have a procedure performed by another unknown physician merely because of this rule.
• The condition of payment creates inequity among patients as Medicare patients would have to travel to another hospital for procedure, but other payers’ beneficiaries only have to meet the 96 hour average, so could receive the service at the CAH.
• There is an increased burden to patients and families who will have to travel to receive services only because of the 96 hour rule, which may require additional burden of arranging transportation to another hospital.
• If CAHs are forced to eliminate the services when patients stay longer than 96 hours, the resulting financial pressure on CAHs would severely affect their ability to care for patients in their communities.
• Because the condition of payment is in statute, a legislative change is required in order for it to be modified or removed.

IHA POSITION
IHA supports S. 258/H.R. 169. This simple legislative fix will resolve the discrepancy between the CAH Conditions of Participation which require only a 96-hour average inpatient stay and the Conditions of Payment which do not permit a CAH inpatient stay greater than 96 hours.
• The condition of participation requiring CAHs to maintain a 96 hour annual average per patient would remain and would allow beneficiaries to continue to receive services in their community by their own trusted and chosen physicians as they have for decades.

Resources:
42 U.S.C. § 1395f Conditions of Payment
42 CFR 485.601 Conditions of Participation: Critical Access Hospitals
CMS-3244-F

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