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M.D.s May Misunderstand When Clock Starts Under Two-Midnight Rule, Put Patients in OBS

By Nina Youngstrom

When a hospitalist assessed a Medicare patient for hospitalization at 3:40 a.m., treatment, including IV antibiotics, was already well underway because the patient had shown up at the emergency room at 10:15 p.m. the night before. In the chart, the hospitalist wrote "two midnights of medically necessary care are not anticipated, placing into outpatient status with observation services." Maybe this sounds like a careful interpretation of the two-midnight rule, but one midnight had passed by the time the hospitalist evaluated the patient and wrote the treatment plan, and there was reason to believe the patient would stay two midnights in the hospital. Inpatient status was jeopardized, however, by the hospitalist's misunderstanding of when the midnight count begins.

Many attending physicians and hospitalists "are not taking into account the care that started before they got involved," said Juliet Ugarte Hopkins, M.D., physician advisor for case management, utilization and clinical documentation at ProHealth Care in Waukesha, Wisconsin. "It's important for case managers to help them realize that because they are assessing care, it doesn't mean it hasn't started already. If you are in a health system where case managers aren't available 24/7, it will be especially important."

Hopkins described some of the new and ongoing compliance challenges with the two-midnight rule at a Nov. 14 webinar sponsored by RACmonitor.com, and ways to manage them and other utilization issues.

Admissions for total knee replacement (TKR) have caused a lot of hand-wringing since CMS moved TKR off the inpatient-only list Jan. 1 (*RMC 3/5/18, p. 1; 2/26/18, p. 3; 11/13/17, p. 1*) in the final OPPS regulation, which included unusual language giving orthopedic surgeons more leeway in their inpatient versus outpatient decision-making. For example, inpatient TKRs could include patients who require transfer to a skilled nursing facility (SNF) after surgery. "That blew a lot of peoples' minds" because other surgeries, such as laminectomies, may require SNF care post-op, but CMS doesn't consider it relevant for patient-status, Hopkins noted.

Here's a list of factors she put together for orthopedic surgeons at her hospital that weigh in favor of admitting patients for TKR (based on recommendations from Ronald Hirsch, M.D.):