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Status of Medicare patients can result in huge bills

Elderly patients hospitalized but not 'admitted' can face higher costs

By Liz Kowalczyk | GLOBE STAFF AUGUST 25, 2013



JONATHAN WIGGS/GLOBE STAFF

Harold and Sylvia Engler were shocked to find out that Harold had never been admitted to Beth Israel Deaconess while he was recovering from surgery. He had stayed for 10 days.

Harold Engler recently spent 10 days in a Boston teaching hospital, trying to snap back from complications after urgent hernia surgery. Nurses provided around-the-clock treatment, changing the 91-year-old’s catheter, for example, and pumping him with intravenous drugs for suspected pneumonia.

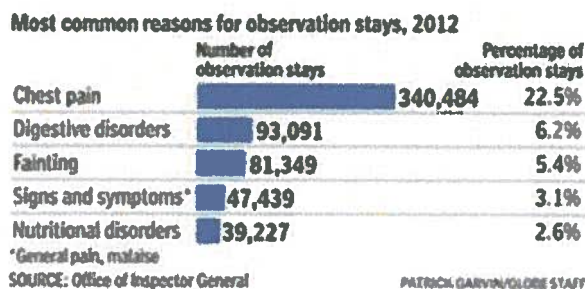
It all seemed like textbook hospital care to his wife, Sylvia. So she was shocked to learn that Beth Israel Deaconess Medical Center had never “admitted” her husband at all.

“Mrs. Engler, we have bad news for you. This was marked ‘medical observation,’ ” said a nurse at the nursing home where her husband was sent for rehabilitation. The hospital had decided Harold Engler was not sick enough to qualify as an official “inpatient.”

The difference in terminology was not a mere technicality: the observation classification left the Englers with a huge bill. It triggered a mystifying Medicare rule that required the Framingham couple to pay the entire \$7,859 cost of his rehabilitation care and the medications he needed while at the nursing facility. If Harold Engler, a retired sales executive, had been admitted to the hospital, they would have likely paid nothing.

It is a striking example of just how impenetrable the US health care system can be for those who use it. Thousands of Medicare enrollees in Massachusetts and across the country are finding themselves caught in the same perplexing bind: Despite long hospital stays, they have been deemed observation patients or outpatients whose follow-up care is not covered. They also can face higher costs for the hospital stay itself when they are not officially admitted.

These observation patients usually share rooms with regular inpatients and receive care from the same doctors and nurses, making their status invisible to them. “I just assumed he was an inpatient. He was on a medical floor,” Sylvia Engler said.



Hospitals say it's not their fault. Executives at Beth Israel Deaconess and other institutions say they are just trying to follow Medicare billing rules that even they don't always fully understand.

Medicare originally intended observation care as a way to give doctors time to evaluate whether a patient should be admitted to the hospital or is stable enough to go home, usually within 24 to 48 hours. But hospitals are increasingly keeping patients in observation status longer: 8 percent of Medicare recipients had observation stays longer than 48 hours in 2011, up from 3 percent in 2006.

That increase may partly be a response to aggressive reviews of hospital billing practices in recent years. Medicare contractors have demanded refunds from hospitals that admit patients the government believes should have been treated as observation patients or outpatients. Medicare pays hospitals less for those patients.

Medicare officials said they could not comment, in part because the American Hospital Association last year filed a lawsuit against the federal government over the issue.

Beth Israel Deaconess reached a \$5.3 million settlement with the government last month over allegations that it improperly admitted patients between 2004 and 2008. And while the hospital denied any wrongdoing, investigators implied the hospital was motivated by profit.

Sylvia Engler believes the hospital has now gone too far in the other direction. She cashed in a money market account to pay the nursing home bill, and took her case to Diane Paulson, a senior attorney at the Medicare Advocacy Project of Greater Boston Legal Services. Paulson plans to appeal to Medicare.

Toby Edelman, senior policy attorney at the Center for Medicare Advocacy in Washington, D.C., said she believes hospitals also could be trying to avoid readmission penalties, which are assessed if too many patients are readmitted within 30 days. Harold Engler, for example, went home after five days, grew sicker, and then returned for another five-day observation stay. If he had been an inpatient, he would have counted as a readmission within 30 days.

Dr. James Hart, who heads a Beth Israel Deaconess committee that makes sure the hospital follows Medicare rules, said he could not comment on Engler's case. But he said the hospital uses a sophisticated computer program that tries to match patients with the correct Medicare designation based on their illness and the intensity of hospital services required. "We are very focused on getting the level of care accurate," he said.

Case managers generally inform patients of their status, especially if they require skilled nursing care, he said. But that doesn't mean patients digest the information, at a time when they have so much to focus on. "Part of the challenge from a patient perspective is there really is an information overload," Hart said.

Ann Gillis also was surprised to learn she wasn't a hospital inpatient. At age 83, she fell in her Milton home in February. An ambulance sped her to Milton Hospital, where doctors discovered she had broken her pelvis in two places. "The doctor said, 'We are going to send you upstairs,'" she recalled.

Gillis was in terrible pain but doctors decided she didn't need surgery. Instead, they provided pain medication and advised her to lay absolutely still. On the fourth day, a hospital social worker said she would require rehabilitation at a nursing home. To her surprise, the social worker said she'd have to pay herself.

"I was not admitted and I didn't know that," Gillis said. "I was in a regular bed and a regular room." Gillis used part of her IRA to pay \$7,100 for two weeks of rehabilitation. Medicare publishes a pamphlet titled "Are You a Hospital Inpatient or Outpatient? If You Have Medicare — Ask!" but she never saw it.

Since becoming aware of Gillis's case, Milton Hospital executives said they have scheduled talks on navigating the health care system. Gillis's first appeal to Medicare was rejected but she plans to file another.



JONATHAN WIGGS/GLOBE STAFF

Ann Gillis paid a \$7,100 rehabilitation bill after a stay at Milton Hospital, where she wasn't considered an inpatient.

In a letter to Medicare, Paulson described another case she is fighting. A 90-year-old Lynn woman with numerous medical problems fell and broke her shoulder and was rushed by ambulance to North Shore Medical Center. Two doctors and a caseworker recommended that she be admitted as an inpatient, but the caseworker's supervisor overruled them. The patient had to pay \$40,000 for rehabilitation in a nursing home.

"Our clinical staff and case managers do what is in the best interest of the patient, working within existing Medicare guidelines," said Rich Copp, spokesman for Partners HealthCare, the hospital's parent company. "However, it is no secret that current Medicare policy is not perfect."

If hospitals determined that these patients were not sick enough for inpatient care, who would be?

Hart said that Medicare lists operations that are always inpatient, including heart bypass and valve surgery and many neurosurgical procedures.

Beyond that, hospital doctors and managers decide case by case. A heart failure patient with fluid in the lungs and trouble breathing might feel better with a single dose of a diuretic. That patient likely would be listed as outpatient or observation. But if the patient required a longer round of medications to become stable, the patient probably would be admitted, he said.

"Medicare isn't making this easy for patients," he said.

Medicare officials have said they are concerned about patients being observed for days in the hospital without being admitted, and issued regulations this summer they believe will help provide clarity to hospitals. But advocates for the elderly are not so sure.

"They're contradictory and unclear," Edelman said.

The rules, which take effect Oct. 1, allow hospitals to change a patient's care level up to a year after discharge. One worry is that patients will be switched from inpatient to observation status months after they leave the hospital — and get socked retroactively with a rehabilitation bill.

Instead, patient advocates back federal legislation that would require Medicare to pay for nursing home care after three days in the hospital — no matter what those three days are called. Medicare now requires a three-day inpatient stay before it will pay for nursing home care.

At the very least, Paulson said, patients should receive immediate written notice of observation status and the chance to appeal while they are still in the hospital. For now, she and Edelman recommend that patients and families always ask — and push back if needed.

Edelman said one patient’s son and her lawyer met with a hospital chief executive and convinced him to change the patient from observation to inpatient.

“Do anything you can to get the hospital to change your status,” she said.

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