

SENATE BILL REPORT

ESHB 1186

As Reported by Senate Committee On:
Health Care, March 31, 2015

Title: An act relating to notifications to patients in observation status at hospitals.

Brief Description: Requiring notifications to patients in observation status at hospitals.

Sponsors: House Committee on Health Care & Wellness (originally sponsored by Representatives Clibborn, Springer, Johnson, Senn, Moeller, McBride, Walkinshaw, Caldier and Fey).

Brief History: Passed House: 3/09/15, 98-0.

Committee Activity: Health Care: 3/23/15, 3/31/15 [DPA].

SENATE COMMITTEE ON HEALTH CARE

Majority Report: Do pass as amended.

Signed by Senators Becker, Chair; Dammeier, Vice Chair; Frockt, Ranking Minority Member; Angel, Bailey, Brown, Cleveland, Conway, Jayapal, Keiser and Parlette.

Staff: Kathleen Buchli (786-7488)

Background: Medicare is a federally operated program that provides insurance to people who are over 65 years old and those who are under 65 years old and have been deemed disabled under the Social Security Act. Medicare covers inpatient care in hospitals and skilled nursing facilities, hospice-care services, and home-care services. Additional medically necessary benefits are also covered, including physician services, outpatient care, and durable medical equipment.

Medicare policies define observation status as clinically appropriate services that are provided to a patient in a hospital while a decision has yet to be made as to whether the patient should be admitted as an inpatient or discharged. These services include short-term treatment, assessment, and reassessment. Medicare policy indicates that decisions on hospital admission or discharge can usually be made in less than 24 hours and only rare and exceptional cases require more than 48 hours in observation status.

Medicare enrollees who have spent at least three consecutive days as an inpatient of a hospital may receive certain post-hospital extended care services under Medicare. Extended

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care services include skilled nursing services or skilled rehabilitation services provided at a skilled nursing facility. Time spent in observation status or in an emergency department does not count toward the three-day prior-stay requirement.

Summary of Bill (Recommended Amendments): A hospital must provide oral and written notification to each patient or the patient's legal representative within 24 hours of the patient being classified as an outpatient in observation status by the hospital, unless the patient has been discharged or has left the hospital within 24 hours. The notice must include the following information:

- a statement that the patient is under observation status and is not admitted to the hospital;
- a statement that observation status may affect the patient's insurance coverage for hospital services, home or community-based care, or skilled nursing facilities; and
- recommendations to contact the patient's insurance provider for more information about the implications of being determined to be in observation status and to conduct a timely review of benefit statements and contact the patient's insurer with any questions.

Notice is not required for patients who are enrolled in Medicaid. However, patients enrolled in both Medicaid and Medicare must be provided notice.

Observation status is defined as the classification of a patient as an outpatient while a decision is made to either admit the patient as a hospital inpatient or discharge the patient from the hospital.

EFFECT OF CHANGES MADE BY HEALTH CARE COMMITTEE (Recommended Amendments): Removes a reference to the Medicaid program.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Engrossed Substitute House Bill: PRO: We cannot change the federal law relating to reimbursement of hospital stays under Medicare, but what we can do is notify people of this policy. Someone needs to tell patients to check on their status so they can make informed decisions about their care. Congress is starting to look at this issue as well and other states are requesting that notice be provided to patients. The language referencing Medicaid needs to be removed as it is not part of the discussion. We also request that the notice be provided when other billing information is sought from the patient and that a signature requirement be added to the bill. Observation status affects Medicare seniors and they need to check with their carriers to determine what their coverage is. Between 2006 and 2012, there has been an 88 percent increase in observation status. Financial impact is great for people in observation status who must pay copays for all procedures they undergo while in observational status. They will pay prescription costs at

higher rates. Many people who have been in observation status do not know that they were in this status. This affects patients who receive services in skilled nursing facilities. If they were in observation status before moving to the skilled nursing facility, they will be required to pay for the skilled nursing facility service. Some people in this circumstance do not go to the skilled nursing facility because they cannot pay for it.

OTHER: The issue is with the federal government which sets the policies relating to observation status. We are opposed to adding a signature requirement to the notification. Whether a patient is on observation status or inpatient status is a clinical decision made by a physician.

Persons Testifying: PRO: Representative Clibborn, prime sponsor; Howard Katz, Bellevue Network on Aging; Kathy Iverson, Carolyn Kelso, Kirkland Senior Council; Sandra Hayes, Careage; Liliya Babadzhanova, Mission Healthcare at Bellevue.

OTHER: Lisa Thatcher, WA State Hospital Assn.; Dennis Martin, Health Care Authority.

Persons Signed in to Testify But Not Testifying: No one.