



O'CONNOR HOSPITAL RULING: COMMON SENSE AT ITS BEST

A RAC appeals case originating in 2004 has reached the Medicare Appeals Council. The next step in the appeals process would be Federal Court.

At issue are four claims judged by the RAC to be unjustified for inpatient admission and associated services. The RAC demanded return of the inpatient payments as overpayments. The Administrative Law Judge (ALJ), which is the appeals step just before the Medicare Appeals Council, ruled that three of the claims actually were justified and medically necessary. The fourth claim was judged as being medically unnecessary for inpatient admission, BUT the services provided would have met requirements for observation services.

Note: this appeal involves the very sensitive and broadly based issue of short-stay

inpatient admissions that should have been classified as observation. The Medicare program has never adopted formal standards for inpatient admissions; thus any short-stay inpatient admission can be questioned and there is no definitive way for auditors to know that an admission is proper.

The CMS stance on this type of situation is that the hospital is to lose all reimbursement. If a hospital determines after the fact or an auditor determines for them, the only billing is a Type of Bill 110 for a no-pay claim. In theory, there might be some incidental services that would not be part of the inpatient claim, but basically all reimbursement is lost.

The ALJ ruled that the observation services should be paid in lieu of denying payment for the inpatient services. CMS appealed, stating that there was an error in law.

"In its referral memorandum to the Council, CMS asserts that the ALJ erred as a matter of law by ordering Medicare payment for 'the observation and underlying care' provided to the beneficiary because those services are not separately billable under Part A."

FROM THE RULING:

"The Council does not agree that the case contains an error in law. The position advanced by CMS in its memorandum is inconsistent with the guidance set forth in the CMS Manuals. CMS has expressly stated that Part B payment may be made if Part A payment is denied."

The ruling goes on to discuss various Medicare rules and regulations supporting that CMS should make payment for the observation services that **Continued on pg. 3— O'Connor Hospital Ruling..**



QUOTE OF THE MONTH...

" Don't measure yourself by what you have accomplished, but by what you should have accomplished with your ability."

HAPPY MOTHER'S DAY



Mother's Day is celebrated to honor all mothers and express gratitude for the hardships they bear in bringing up a child. Most countries including US, Australia, Canada and India celebrate Mothers Day on the second Sunday of May. Mothers Day came into being due to the efforts made by Ms Julia Ward Howe and Ms Anna Jarvis. The Resolution for having a dedicated Mother's Day was signed by US President Woodrow Wilson on May 8, 1914. Since then people across the world have been celebrating Mothers Day with joy and devotion.

WHAT MAKES A GREAT MANAGER...

They say that people join companies and leave managers. This is very much a true fact so it becomes that much more important to ask What makes a great manager? If you are a manager and you are not asking what makes a great manager, then you are missing out on some key information that will make your job easier and your employees job easier and more fulfilling. Think of how much easier your job as a manager would be if you could retain key employees and avoid training new employees. If you can win the confidence and respect of your employees by asking and delivering on what makes a great manager you'll have an easier life and your employees will love you for it. So what makes a great manager?

A great manager listens first then responds: Your employees will want to tell you ideas, concerns, information and general day to day chatter. Avoid distractions and interrupting even if you know the answer let your employee have their say. People have a natural drive to be heard and allowing employees to finish their statements goes a long way in building respect.

A great manager recognizes positive actions and efforts: When your employees complete something successfully or show initiative recognize it. This take discipline as its easy enough just to see what's been done and say to yourself "good". If you notice that turn it around and thank your employee for that accomplishment. Many who know what makes a great manager know that most employees are not motivated by sheer money. They need recognition even if it is not public. Great managers know that employees feed off acknowledgement that their job is being done well.

A Great Manager Shares The Wealth: Many managers receive bonus compensation based on the efforts of their team members. If as a manager you are compensated based on the efforts of others reward them each time you receive your bonus. Take them to lunch on "you" so they know you appreciate how their efforts contribute to your own paycheck.

A Great Manager Sets Clear Expectations: Employees should always know what you expect of them. One of the easiest ways to do this is to set deliverable milestones for each employee over a set period of time. Then review the employees performance vs. the milestone or deliverable and discuss ways to improve or congratulate them on a job well done and set new goals.

A Great Manager Provides A Roadmap To Success: One of the key things a great manager can do is lay out a roadmap for your employee to follow to be a success. In addition to one on one meetings, a great manager should sit down at least six months prior to a performance review to explain where the employee is at and find out where they want to be and work out a way to get there. Some employees may be satisfied with "good" performance, some will want to achieve a performance review that is above average. It is critical to assist those wanting to outperform with a roadmap to do so. This can be challenging but is key to developing outstanding employees.



MEMORIAL DAY

Memorial Day is much more than a three-day weekend that marks the beginning of summer. To many people, especially the nation's thousands of combat Veterans, this day, which has a history stretching back all the way to the Civil War, is an important reminder of those who died in the service of their country. Memorial Day is the time to remember, reflect and honor those who risked their lives to protect us and the country. Saluting and remembering the brave hearts who gave their all for all of us....

Soldier, rest, thy warfare o'er, Dream of fighting fields no more. Sleep the sleep that knows not breaking, Morn of toil, nor night of waking.

Sir Walter Scott



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will offset some portion of the inpatient overpayment.

"In this case, the provider submitted a timely claim for services which was paid under Part A. When the RAC reopened the determination on the initial claim at issue here, it had the same plenary authority to process and adjust the claim as it did when that claim was first presented and paid. The RAC's revised initial determination states that the beneficiary met the criteria for outpatient observation status.

Consistent with the CMS manual provisions discussed above, the contractor shall work with the provider to take whatever actions are necessary to arrange for billing under Part B, and thus, offset any Part A overpayment. The contractor shall issue a new initial determination upon effectuation." (Emphasis added.)

The ruling clearly indicates that when the RAC reopens a determination, everything starts over. Thus, if there should have been some other payment, the claim should have been adjusted and the proper payment credited against the overpayment.

Understandably, CMS is very concerned about this type of interpretation. If it holds up, assuming CMS does not take this to court, there are significant issues of reduced overpayments and complicated processing issues. Let us consider an example.

Case Study 1 - Sam, a retired rancher, has been brought to the Apex Medical Center's ED one afternoon. He is complaining of chest pains and a severe headache. An extensive workup is provided at the ED including laboratory testing, cardiology testing and extensive radiology tests,

inclusive of a CAT scan. Sam's attending physician decides to admit him as an inpatient due to a likely cardiac event. The next morning, Sam is feeling much better. Virtually all of his symptoms are abated. Additional testing indicates no problems and Sam is discharged just before lunch.

Because this was an inpatient admission, all the diagnostic testing and services provided in the ED are included on the inpatient claim,⁽³⁾ at least as charges although there would be no CPT coding reported. If a RAC determined that this whole episode should have been an outpatient observation case, we would have needed to go back and determine what payment should have been made on the outpatient side. This would require rebilling and recoding the case with all the CPT codes for the various ED and diagnostic services along with the observation.

Let us take the concept of using what should have been paid and apply it against the overpayment by extrapolating with other types of situations.

Case Study 2 - The Apex Medical Center has just received a RAC determination that an incorrect CPT code was used on a claim that paid \$400 (that is, the code used was not justified by the documentation). The RAC is demanding repayment of the \$400. Apex checks and discovers that a different code that would have paid \$320 should have been used. Unfortunately, this claim is identified outside the time period during which it can be re-filed.

If we apply the ALJ ruling, which is being upheld by the Medicare Appeals Council, the overpayment amount is actually \$80 - because the RAC reopened the case, the \$320 payment can be used to offset the \$400 overpayment. But how will the proper code and corrected claim be developed and recognized?

The concept illustrated in the ruling also can be applied to current types of situations. Take Case Study 1 and modify the facts by having Utilization Review (UR) intervene just before Sam is discharged from the hospital. Presume that UR, with the physician's concurrence, by using Condition Code 44 changes the case to observation. Recent pronouncements from CSM have indicated that the observation services only can be billed from the time the doctor orders the observation. The ALJ ruling *appears to imply* that the observation should be considered back to the beginning of the episode of care occasioning the inpatient admission.

BOTTOM LINE:

Whether CMS will appeal this ruling to Federal Court is not known. If it is appealed, this issue could be tied up in the courts for years. There are two potentially major issues:

- i. There are tens of millions of dollars in recouped overpayment that may need reconsideration.
- ii. The process for reconsideration is quite complex and would take significant effort on the part of providers and Medicare contractors.

This ruling can be downloaded from: <http://www.gao.gov/new.items/d10143.pdf>.

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This is simply a day to salute sharply to all of the men and women in all branches of the service who protect our country and you. They can be called upon at a moment's notice to perform a risky and perilous mission for freedom and country. They train diligently both physically and mentally so they will be prepared to prevail in any mission they face.

This nation will remain the land of the free only so long as it is the home of the brave. -Elmer Davis

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MAKING A DIFFERENCE WHERE IT COUNTS...

CHARGE CAPTURE

"Charge Capture" should be an essential part of any healthcare organization. Properly capturing charges can significantly increase the revenue and reduce the delayed payments/ long accounts receivable cycle.

Unfortunately, many hospitals and healthcare providers consider this task as just another cost of doing business or view this process as low priority administrative function without any centralized process or standards in entering charges and do not give it the high priority that it should be given.

Hospitals and healthcare providers lose millions of dollars every year due to mismanagement of the billing process. This ranges from inaccurate charging, such as undercharging for a service or procedure or missing a charge altogether. Accurate charge capture processes will improve cash flow and increase revenue which add up to a healthier bottom line satisfying regulatory compliance.

One way of insuring such process is having Internal Medical Chart Audit.

Internal Medical Chart Audit should be considered an Investment, Not Just a Cost.

A properly trained Medical Chart Auditor with a strong clinical and billing experience assisting the appropriate department managers and nursing departments with maintaining and/or developing Charging Protocols and Policies in all revenue producing departments can play a significant role in identifying, correcting and improving the charge capture and recovery of lost revenue process within a hospital and healthcare providers.



"I'll have someone come in and prep you for the bill."