



Washington State
Hospital Association



Implementing the Medicare Outpatient Observation Notification (MOON) Form

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Background on Issues Related Observation Status

The NOTICE Act and MOON Form

What are Hospitals Doing to Implement the Requirements?

Observation History

- Appropriate clinical status in cases where patient requires additional monitoring or testing to determine if inpatient care needed
- 3-day inpatient stay inappropriately viewed as gateway to Medicare nursing home benefits
- Recovery Audit Contractor (RAC) program instituted to ensure all inpatient days meet medical necessity criteria
- Two-midnight rule implemented to provide some stability and consistency in Medicare payment
- Congress determined patients require notification of observation as it impacts cost share and SNF qualification



NOTICE Act

- Notice of Observation Treatment and Implication for Care Eligibility Act (NOTICE Act) passed by Congress and signed into law August 6, 2015
- Original effective date August 6, 2016
- Delay due to comment periods and process relating to CMS rules and the standard Medicare Outpatient Observation Notification (MOON) form
- NOTICE Act requirements, including use of MOON effective March 8, 2017



MOON Downloads

<https://www.cms.gov/Medicare/Medicare-General-Information/BNI/index.html>

Includes links to:

- Doc and pdf copies of the MOON form (in English and Spanish)
- Instructions for completing the form
- Update to Medicare Manual



SCOPE

400.2- Scope

The MOON must be delivered to beneficiaries in Original Medicare (fee-for-service) and Medicare Advantage enrollees who receive observation services as outpatients for ***more than 24 hours***. The hospital or CAH ***must provide the MOON no later than 36 hours after observation services as an outpatient begin***. This also includes beneficiaries in the following circumstances:

- Beneficiaries who do not have Part B coverage (as noted on the MOON, observation stays are covered under Medicare Part B).
- ***Beneficiaries who are subsequently admitted as an inpatient prior to the required delivery of the MOON.***
- Beneficiaries for whom Medicare is either the primary or secondary payer. For purposes of these instructions, the term “beneficiary” means either beneficiary or representative, when a representative is acting for a beneficiary.

Discussion: How are hospitals identifying and tracking the patients that are subject to the notice requirement?

Some hospitals indicated that they were running a daily census report by payor category of Medicare or Medicare Advantage. A report could also be run using patient age as a proxy. Hospitals indicated they had not yet determined the best time of day to run the report.



SCOPE

Hospitals Affected by these Instructions.

These instructions apply to hospitals as well as CAHs per section 1861(e) and section 1861(mm) of the Social Security Act.

400.3- Medicare Outpatient Observation Notice

The MOON is subject to the Paperwork Reduction Act (PRA) process and approval by the Office of Management and Budget (OMB). The MOON may only be modified as per their accompanying instructions, as well as per guidance in this section.

MOON ALTERATIONS

400.3.1- Alterations to the MOON

In general, the MOON must remain two pages, unless inclusion of additional information per section 400.3.8 or State-specific information per section 400.5 below results in additional page(s). Hospitals and CAHs subject to State law observation notice requirements may attach an additional page to the MOON to supplement the “Additional Information” section in order to communicate additional content required under State law, or may attach the notice required under State law to the MOON. The pages of the notice can be two sides of one page or one side of separate pages, ***but must not be condensed to one page.*** Hospitals may include their business logo and contact information on the top of the MOON. ***Text may not be shifted from page 1 to page 2 to accommodate large logos, address headers, or any other information.***

MOON COMPLETION

400.3.2- Completing the MOON

Hospitals must use the OMB-approved MOON (CMS-10611). Hospitals must type or write the following information in the corresponding blanks of the MOON:

- Patient name;
- Patient number; and
- Reason patient is an outpatient.

Discussion: What should hospitals state as the reason a patient is an outpatient?

Hospitals indicated they would use general language for the majority of cases. Examples:

- ***At the time of this notice, your illness/injury requires outpatient care. Your needs will be monitored to see if you can be safely discharged or require inpatient admission. If you have a Medicare Advantage plan through a commercial insurance company, your plan may have different rules.***
- ***Your condition requires additional testing and monitoring to determine if you can be discharged or require inpatient care. We expect that determination to be made within the next 24 hours.***



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MOON DELIVERY

400.3.3– Hospital Delivery of the MOON

Hospitals and CAHs must deliver the MOON to beneficiaries in accordance with section 400.2 above. Hospitals and CAHs must provide both the standardized written MOON, as well as oral notification. Oral notification must consist of an explanation of the standardized written MOON. The format of such oral notification is at the discretion of the hospital or CAH, and may include, but is not limited to, a video format. ***However, a staff person must always be available to answer questions related to the MOON, both in its written and oral delivery formats.***

Discussion: Who are hospitals determining to be appropriate staff person to obtain the signature and provide the oral notification?

Some hospitals indicated they would be using registration staff to provide the oral notification, answer questions, and obtain the patient signature and would time the delivery of notices within the required timeframes to maximize their availability. Hospitals would need to make alternative arrangements for weekends and other times if registration staff are not available.

Are hospitals making use of video or recordings to provide the oral notification?

Hospitals indicated they initially will not use recordings but would consider it for the future. Since the law requires a staff person be available answer questions and obtain the signature, it may make more sense for them to just read the MOON notice.



MOON SIGNATURE

The hospital or CAH must ensure that the beneficiary or representative signs and dates the MOON to demonstrate that the beneficiary or representative received the notice and understands its contents. Use of Assistive devices may be used to obtain a signature. Electronic issuance of the MOON is permitted. If a hospital or CAH elects to issue a MOON viewed on an electronic screen before signing, the beneficiary must be given the option of requesting paper issuance over electronic issuance if that is what the beneficiary prefers. Regardless of whether a paper or electronic version is issued and regardless of whether the signature is digitally captured or manually penned, ***the beneficiary must be given a paper copy of the MOON, as specified in 400.3.9, and the required beneficiary specific information inserted, at the time of notice delivery.***

DELIVERY TIMEFRAMES

400.3.4- Required Delivery Timeframes

The MOON must be delivered to a beneficiary who receives observation services as an outpatient for more than 24 hours, and must be delivered not later than 36 hours after observation services begin. ***The MOON must be delivered before 36 hours following initiation of observation services if the beneficiary is transferred, discharged, or admitted.*** The MOON may be delivered before a beneficiary receives 24 hours of observation services as an outpatient.

The start time of observation services, for purposes of determining when more than 24 hours of observation services have been received, ***is the clock time observation services are initiated (furnished to the patient), as documented in the patient's medical record, in accordance with a physician's order.*** This follows the elapsed clock time, rather than the billed time, associated with the observation services.

Discussion: At what point of the timeline (at the time admitted to observation, 20 hour mark, 36 hour, discharge) are hospitals providing the notification? How is this being tracked?

There were a variety of responses from hospitals. Some indicated they would notify all Medicare Observation patients identified by a report as soon as practical, others at the 20 hour mark, some at 36 hour or discharge/transfer, whichever came first. If notification is delayed, a hospitals must have a robust mechanism to track observation patients to ensure they receive the notice within the required timeframes or at discharge, whichever occurs first.



REFUSAL TO SIGN

400.3.5- Refusal to Sign the MOON

If the beneficiary refuses to sign the MOON, and there is no representative to sign on behalf of the beneficiary, the notice must be signed by the staff member of the hospital or CAH who presented the written notification. The staff member's signature must include the name and title of the staff member, a certification that the notification was presented, and the date and time the notification was presented. The staff member annotates the "Additional Information" section of the MOON to include the staff member's signature and certification of delivery. The date and time of refusal is considered to be the date of notice receipt.

MOON DELIVERY TO REPRESENTATIVES

400.3.6– MOON Delivery to Representatives

The MOON may be delivered to an appointed representative or other authorized representative of the patient. This should be documented in the “other information” section of the MOON.

In some situations a MOON can be provided telephonically if the representative is not on-site. Staff should read this section carefully for requirements.

(See Medicare Manual update for additional information).

ENSURING BENEFICIARY COMPREHENSION

400.3.7 – Ensuring Beneficiary Comprehension

The OMB-approved standardized MOON is available in English and Spanish. If the individual receiving the notice is unable to read its written contents and/or comprehend the required oral explanation, hospitals and CAHs must employ their usual procedures to ensure notice comprehension. Usual procedures may include, but are not limited to, the use of translators, interpreters, and assistive technologies.

ADDITIONAL INFORMATION FIELD

400.3.8 - Completing the Additional Information Field of the MOON

This section may be populated with any additional information a hospital wishes to convey to a beneficiary.

Such information may include, but is not limited to:

- Contact information for specific hospital departments or staff members
- Additional content required under applicable State law related to notice of observation services.
- Part A cost-sharing responsibilities if a beneficiary is admitted as an inpatient before 36 hours following initiation of observation services.
- The date and time of the inpatient admission if a patient is admitted as an inpatient prior to delivery of the MOON.

ADDITIONAL INFORMATION FIELD CONT'D

- Medicare Accountable Care Organization information.
- Hospital waivers of the beneficiary's responsibility for the cost of self-administered drugs.
- Any other information pertaining to the unique circumstances regarding the particular beneficiary.

If a hospital or CAH wishes to add information that cannot be fully included in the “Additional Information” section, an additional page may be attached to supplement the MOON.

Discussion: What information, if any, do hospitals plan to include in this section? Do hospitals plan to provide additional information as separate sheets?

Hospitals indicated they generally plan to limit the “additional information” to notations such as cases where the patient refuses to sign or when the notification is provided to a representative. At this point there are no Washington State specific observation notification requirements.

NOTICE RETENTION

400.3.9- Notice Retention for the MOON

The hospital or CAH must retain the original signed MOON in the beneficiary's medical record. The beneficiary receives a paper copy of the MOON that includes all of the required information described in section 400.3.2 and, as applicable, sections 400.3.5, 400.3.6 and 400.3.8. Electronic notice retention is permitted.

INTERSECTION WITH STATE OBSERVATION NOTICES

400.4- Intersection with State Observation Notices

As noted in sections 400.3.1 and 400.3.8 above, hospitals and CAHs in States that have State-specific observation notice requirements may add State-required information to the “Additional Information” field, attach an additional page, or attach the notice required under State law to the MOON.

Currently there are no Washington State -specific observation notification rules.

Thank You!

Questions? Comments?

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