

## **Hospital Admission: Inpatient or Observation? The Answer Could Mean Thousands of \$\$\$ to Seniors**

It's been four years since his father died in a Eureka skilled nursing facility, but Mark Gatzke is still angry over a Medicare billing technicality that haunted his parents for his father's final weeks, his mother for more than a year, and a growing number of beneficiaries since then.

The technicality has to do with whether a hospital patient is admitted as an inpatient or for observation. It was one of the focal points in a May 20 Congressional hearing, "Current Hospital Issues in the Medicare Program," the first of its kind to consider the impact of observation on Medicare's hospitalized patients.

If admission is for observation, Medicare does not cover costs for a necessary following stay in a skilled nursing facility and only pays the hospital under Part B coverage for doctors' bills and outpatient care. That meant McKinleyville's Shirley Gatzke was looking at more than \$30,000 in unexpected medical bills while her husband of 60 years spent the last seven weeks of his life in a hospital and nursing home.

"He made jokes about it even during the end, saying, 'The best thing I can do is die,'" Mark Gatzke said by phone from his New Jersey home. "If it had gone on any longer, Mom would have lost her house and everything. As my Dad slowly died, they fought her over every penny."

"They" are Medicare, Mad River Community Hospital and Granada Healthcare and Rehabilitation Center, but none of the three deserve villain status in a story about misaligned payment incentives and unintended consequences. All witnesses at the hearing agreed patients get the medically necessary care regardless of admission status.

"Hospitals are not doing anything wrong. Hospitals are simply responding to the incentives," House Ways and Means Health Subcommittee Chairman Kevin Brady (Rep-TX) stated in his prepared remarks to open the May 20 hearing.

"Over the last for years, I've had maybe one or two calls about this," said Suzi Hendry, volunteer coordinator for the Health Insurance Counseling & Advocacy Program in

Eureka. “The last three months, I’ve had five phone calls about it. The floodgates have opened.”

“It’s happening everywhere,” HICAP Program Manager Nancy Cloward said.

Testimony at the hearing included an example of a 90-year-old man denied skilled nursing coverage after his leg hematoma exploded, requiring emergency surgery and a four-day hospital stay, and a woman denied coverage after a 13-day hospitalization.

“One of the big drivers is that hospitals are being dinged if they have too many readmissions,” Cloward said. “If patients are never admitted as an inpatient, they can’t get dinged.”

In addition to avoiding readmission penalties, testimony at the hearing also said the drivers for observation status were an unintended consequence of a 2013 Medicare rule change around short stays, and the hospital’s desire for protection from denial of payment and audit by Medicare’s recovery audit contractors.

Recovery auditors share a percentage of the savings achieved when they successfully challenge a hospital’s inpatient admission decision. *The Office of Inspector General testified recovery auditors identified improper payments of \$1.3 billion in fiscal years 2010 and 2011, and 88 percent of those came from inpatient hospital claims.*

Russell Gatzke died on Oct. 4, 2010. A fall brought the Medicare-covered couple into Mad River Community Hospital for an Aug. 19-25 stay.

“He had a private room. They were running tests. He was a fall risk,” Shirley Gatzke said in early June. “He was there for a week. Then they said he couldn’t come home, that he should go to Granada. They transported him by ambulance to Granada.”

It wasn’t until mid-September that Shirley Gatzke learned the nursing home bills were hers to pay as the administrator checked the box that said her husband did not meet the three-day inpatient stay mandated by Medicare for coverage.

According to a Sept. 8, 2010 notice signed by a Mad River official, the hospital was “unable to find data that matched with Medicare’s guidelines for inpatient status.” Russell Gatzke spent a week in the hospital for observation, not as an inpatient.

The Gatzke experience has been repeated by so many Medicare beneficiaries across the country that the Access to Medicare Coverage Act of 2011 was introduced, but is still winding its way through the legislative process, now as H.R. 1179/S. 569, the Improving Access to Medicare Coverage Act of 2013.

The act seeks to count observation stays toward the three-day mandatory inpatient stay for Medicare coverage of skilled nursing facility services.

*Another panelist, Amy Deutschendorf of Johns Hopkins University, described how millions of dollars of hospital resources are going into efforts to address inpatient/outpatient stays and to respond to recovery auditors. She also described how her hospital's observation rate has increased 33 percent since Medicare adopted a "two-midnight" rule to assess patient status at the hospital.*

*The Medicare Rights Center says the rule "fails to facilitate transparent communications by hospitals and health care providers to beneficiaries about their status and cost-sharing responsibilities."*

*Shirley Gatzke was billed nearly \$8,500 for nursing home care for five weeks in August and September. Another \$6,850 was charged as a pre-pay for October.*

*"Then there was the physical therapy bill of \$16,000 and over \$1,000 in prescription drugs," she said. "At that point, I didn't know what to do. It was very painful to have to fight the system."*

Someone suggested she call HICAP (444-3000), a program of Area 1 Agency on Aging. HICAP's trained staff and volunteers offer free unbiased health insurance assistance to people age 60 and older or with disabilities.

Former program manager Martha Johnson shepherded the Gatzke case through the appeal process.

"She helped me understand my rights, helped me write the letters and pushed everyone to figure it out," Gatzke said. "Martha was a lifesaver."

Shirley Gatzke said she was never reimbursed for \$1,000 in prescription drugs, but everything else was "taken care of." Her advice to those in a similar situation: "Hold your ground and call HICAP."

With legislation pending in committee, Cloward wants to hear more of the local stories so HICAP can document the ongoing issues.

"We can help you, and we can forward your story to help get legislation passed that will correct the problem," she said.