November 2023

THE LIVANTA CLAIMS REVIEW ADVISOR

A monthly publication to raise awareness, share findings, and provide guidance about Livanta's Claim Review Services

Volume 1, Issue 22 **www.LivantaQIO.com** **Open in Browser**

Background

A primary objective of the Medicare claim review services contract, which was awarded to Livanta as a Beneficiary and Family Centered Care – Quality Improvement Organization (BFCC-QIO) contractor, is to work toward decreasing Medicare's paid claims error rate and thus protect the Medicare Trust Fund. As part of that contract and in accordance with Centers for Medicare and Medicaid (CMS) guidance, the BFCC-QIO is charged with identifying and educating hospital providers when they do not comply with the CMS Two-Midnight Rule for Medicare fee-for-service Part A claims for short stay hospitalizations.

In the March 2023 issue of *The Livanta Claims Review Advisor*, Livanta reported summary findings from the first 18,672 short stay reviews conducted under the current 12th Scope of Work contract. The overall denial rate of reviewed Part A hospital claims was 14 percent. The denial rates for stays of zero midnights was 18 percent, and for stays of one midnight, 13 percent.

This current issue of the *Advisor* reports on selected results of data collected from short stay medical records from late August through mid-September 2023. This data collection task was undertaken to quantify some of the most common issues encountered by Livanta reviewers when assessing a short stay claim's compliance with the CMS Two-Midnight Rule.

Previous issues of the *Advisor* have discussed the Rule in detail, but for reference the CMS Two-Midnight Claim Review Guideline can be found at **https://www.cms.gov/sites/default/files/2022-04/BFCC-QIO-2-MidnightClaimReviewGuideline.%20508.pdf**.

Data Collection

Livanta collected additional data on a series of 899 consecutive claims reviewed during a three-week period from August 28 through September 15, 2023. All the claims were selected for review because the Medicare administrative claims data identified that the hospital care was billed under Part A and the inpatient length of stay (LOS) was fewer than two midnights. Livanta uses a stratified sampling strategy when selecting records, as described in the May 2023 issue of the *Advisor*. The series of records arriving for review were from monthly claim samples drawn from March 2022 through August 2023, as not all requested records arrive timely. The additional data collected included the date and time of any order for admission to observation, the date and time of the inpatient admission order, and the date and time of the discharge order.

Results and Discussion

A total of 153 (17.0 percent) of the 899 claims in the series were denied. which is consistent with denial rates that Livanta has previously reported. Of the 899 claims, 451 (50.2 percent) extended over a total of two midnights or more after accounting for midnights spent in the emergency department (ED) or in observation status prior to the inpatient admission order being entered. Provided the care delivered is medically necessary, CMS policy presumes that any ongoing delivery of hospital services extending over two midnights or more is properly billed for payment under Part A. Therefore, all 153 denials involved a total hospital LOS that amounted to less than two midnights, and the Part A claim denial rate for those 448 claims was 34.2 percent. Table 1 subsets the claims by total hospital stay, the presence or absence of an admission to observation order, and the claim's approval or denial status.

Table 1. Approval by Total Hospital Stay and Presence or Absence of an Observation Order

Total Hospital Stay	Approved	Denied	Total
Fewer than Two Midnights **with** Observation Order	50	39	89
Fewer than Two Midnights **without** Observation Order	245	114	359
Fewer than Two Midnights (Subtotal)	295	153	448
Two or More Midnights **with** Observation Order	333	0	333
Two or More Midnights **without** Observation Order	118	0	118
Two or More Midnights (Subtotal)	451	0	451
TOTAL	**746**	**153**	**899**

Admission to observation status orders appeared in 422 (46.9 percent) of the claims. Admission to observation status was seen at a higher rate among claims that involved hospitalizations extending for greater than two midnights, 333 of 451 (73.8 percent), than in claims that resulted in discharges before a second midnight, 89 of 448 (19.9 percent). Higher denial rates (43.8 percent, 39 of 89) were seen in short stay hospitalizations of under two midnights where an admission to observation status occurred than stays when there was no prior admission to observation status (31.8 percent, 114 of 359).

Table 2 displays a more detailed breakout of the 89 short stay records where an admission to observation status order occurs. The majority (78 of 89, 87.6 percent) of observation orders were entered before the first midnight was crossed. Among these, denial rates were higher (25 of 52, 48.1 percent) when the inpatient order followed on the next day—that is, the inpatient order was written on the day of discharge—than when the observation order and the inpatient order were both written before the first midnight was crossed (8 of 26, 30.8 percent denied).

Relatively few observation orders (11 of 89, 12.4 percent) were written after the first midnight had passed, or in other words, on the day of discharge. Of these 11, the overall denial rate was 54.5 percent, and all these denials were among the 8 records where the observation order, inpatient order, and discharge order were written on the same day. Three records were found to have an observation order written on the day of discharge but following an inpatient order written the day before. All three of these cases were approved, however, because they otherwise met the requirements of the Two-Midnight Claim Review Guideline.

Table 2. Approval Status by Timing of Observation Order for Stays of Fewer than Two Midnights

Number of Midnights Prior to Observation Order	Midnights Between Observation Order and Inpatient Order	Approved	Denied	Total
Zero Midnights Prior to Observation Order	0	18	8	26
Zero Midnights Prior to Observation Order	1	27	25	52
Zero Midnights Prior to Observation Order	Subtotal	45	33	78
One Midnight Prior to Observation Order	-1	3	0	3
One Midnight Prior to Observation Order	0	2	6	8
One Midnight Prior to Observation Order	Subtotal	5	6	11
Zero or One Midnight Prior to Observation Order	**TOTAL**	**50**	**39**	**89**

Among the 39 denied observation order cases, Livanta reviewers were unable to find documentation to support a decision to change the patient's status from observation to inpatient. Specifically, there was lack of sufficient documentation of a change in the patient's clinical status or plan of care from the initial admission to observation and the subsequent change to inpatient admission. This resulted in denial when the short-stay claim was reviewed according to the CMS Two-Midnight Claim Review Guideline.

Among the 448 short stay admissions of fewer than two midnights displayed in Table 3, 153 (34.2 percent) had inpatient orders written on the day of discharge (all 33 of the stays that did not cross a single midnight plus 120 of those that did). The overall denial rate for these short stay claims was 39.9 percent (61 of 153). Of these denied claims, at least 31 (50.8 percent) had no documentation for the change to inpatient status entered in the patient's medical record. The rest of the denials had insufficient documentation to support the need for inpatient care. When the inpatient order was entered on the day prior to discharge, the overall denial rate was 31.2 percent (92 of 295). Of these 92 claims, at least 48 (52.2 percent) had no identifiable reason for the change to inpatient status. Despite the lack of any explicit documentation associated with the inpatient admission order, 127 short stay claims were approved based on other documentation in the record after undergoing careful review.

Table 3. Approval Status by Timing of Inpatient Order for Stays of Fewer than Two Midnights

Total Hospital Midnights	Midnights Between Inpatient Order and Discharge Order	Approved	Denied	Total
0	0	22	11	33
1	0	70	50	120
1	1	203	92	295
1	Subtotal	273	142	415
0 or 1	**TOTAL**	**295**	**153**	**448**

In summary, observation status was ordered in almost half of all records reviewed and was more common for stays of two midnights or greater. This represents the expected application of observation status to many cases. There is no downside to this approach since a total LOS of greater than two midnights results in approval regardless of when inpatient status is selected for those patients.

For stays of fewer than two midnights, change of status from observation to inpatient was associated with a higher rate of denial than was seen in cases where the initial status selected was inpatient. This suggests there was less evidence to support the need for inpatient care in those short stays initially assigned to observation. Careful consideration for the decision to change status and to ensure proper documentation will minimize denials.

The CMS Two-Midnight Rule encourages the timely issuance and recording of an inpatient admission order when it becomes clear that a fee-for-service Medicare beneficiary will need to receive medically necessary hospital services for at least two midnights, or there are complex medical factors—such as comorbidities, severe signs and symptoms, or clear risk of an adverse event—that warrant immediate inpatient care.

However, it is expected that there will be documentation to support compliance with one of the steps in the Guideline when inpatient status is chosen. Livanta's data collection results indicate that such documentation was not adequate in about a third of cases with total hospital stays under two midnights, resulting in an overall denial rate of 34.2 percent. Efforts to improve documentation of the rationale for the need for inpatient care should result in fewer denials.

Livanta also found a number of cases where the inpatient admission order was written shortly before a discharge order for a total hospital stay of less than two midnights. In many of these cases, no documentation of the rationale for this decision was identified in the record. When the patient status is changed from observation to inpatient, is it helpful to document the rationale for the change, particularly when the patient has been previously placed in observation status and has been stable during the preceding hours of hospital care.

Livanta advises that patient-specific documentation be included in the medical record to support the reason for inpatient admission. A favorable medical review decision is facilitated when there is documentation of the factors that support either a two-midnight expectation or the need for inpatient care when a two-midnight expectation is uncertain, but there are complex medical factors clearly present at the time the inpatient admission decision is made.

About Livanta

Livanta is the Medicare Beneficiary and Family Centered Care-Quality Improvement Organization (BFCC-QIO) conducting post-pay fee-for-service claim reviews of acute care inpatient hospitals, long-term acute care hospitals, and inpatient psychiatric facilities to determine the appropriateness of Part A payment for short stay inpatient hospital claims. These claims are reviewed on a case-by-case basis in accordance with the Two-Midnight Rule published in FY 2014 Hospital Inpatient Prospective Payment System (IPPS) Final Rule CMS-1599-F, as revised by CMS-1633-F.CMS issued the following BFCC-QIO Two-Midnight Claim Review Guideline that graphically depicts the tenets of the Two-Midnight Rule. Livanta utilizes this Guideline when making payment determinations for short stay review claims.

CMS Two-Midnight Claim Review Guideline (file may appear in a download folder)

https://www.cms.gov/sites/default/files/2022-04/BFCC-QIO-2-MidnightClaimReviewGuideline.%20508.pdf

Questions?

Should you have questions, please email **ClaimReview@Livanta.com**, or visit the claim review website for more information: **https://www.livantaqio.cms.gov/en/ClaimReview/index.html**

Was this email forwarded to you? Want to get future issues of The Livanta Claims Review Advisor delivered to your inbox? Subscribe today at: https://LivantaQIO.com/en/About/Publications