

Opening Statement
Senator Susan M. Collins
Special Committee on Aging

“Admit or Not? The Impact of Medicare Observation Status On Seniors”

July 30, 2014

Mr. Chairman, thank you for calling this hearing to highlight the increasing use of hospital observation stays, and the financial implications for Medicare patients and their families.

Medicare originally intended observation stays as a way to give hospital physicians more time to run tests or do lab work in order to decide whether a patient should be admitted to the hospital or is stable enough to go home. These observation stays, which Medicare considers to be outpatient care, usually lasted between 24 and 48 hours.

Hospitals, however, are increasing their use of observation stays, and they are also keeping Medicare patients in observation status longer. The number of seniors entering the hospital for observation increased by 69 percent over five years, to 1.6 million in 2011. Moreover, eight percent of Medicare patients had observation stays longer than 48 hours in 2011, up from three percent in 2006.

According to the HHS Inspector General, in 2012, Medicare beneficiaries had more than 600,000 observation stays that lasted three nights or more. Many of these patients find themselves in a kind of Medicare “twilight zone,” where they may be in a hospital bed for days, receiving care and treatment from doctors and nurses, but still have not officially been admitted to the hospital as an inpatient.

The financial consequences can be severe for seniors. For example, they are held responsible for outpatient copayments and prescription drug costs that they would not have had as an inpatient. There also is no out-of-pocket cap on these costs.

More important, if a Medicare patient is not formally admitted as an inpatient, Medicare will not pay for any subsequent skilled nursing or rehabilitation care.

A Medicare patient must spend three consecutive midnights in the hospital as an admitted patient in order to qualify for coverage for care in a skilled nursing facility. As a consequence, if a patient who has been on observation status needs follow-up nursing home care, they must pay the entire cost themselves -- even if they have spent the last three midnights in a hospital bed being cared for by the hospital’s doctors and nurses.

Many patients on observation stays may not even realize that they have never been admitted as inpatients. They just know that they are in the hospital. If they are admitted later to

a skilled nursing facility for follow-up care, they may be shocked to learn that they will be liable for out-of-pocket costs totaling thousands of dollars.

I recently heard from a Portland woman whose mother-in-law went to the ER complaining of chest pain. She was put in the hospital on observation status where she remained for five days. During that time, she became very weak, had difficulty swallowing, and lost 20 pounds. She was discharged to a nursing facility where she stayed for nearly a month of follow-up care. Her family had been told that she was being “observed” when she was in the hospital, but they had no idea what that meant. They were therefore stunned to learn that they would have to pay more than \$9,000 because Medicare would not cover the skilled nursing care. This was a huge financial burden for the family.

Mr. Chairman, I am also concerned that many Medicare beneficiaries may be forgoing needed skilled nursing or rehabilitation care altogether because they cannot afford to pay the out-of-pocket costs. You and I have both cosponsored legislation to resolve this situation by deeming time spent in hospital observation status as inpatient care for the purpose of the Medicare three-day prior hospital stay requirement.

In closing, I would like to take this opportunity to welcome Bob Armstrong, who will be testifying on our panel this afternoon. Bob has had a long and stellar career in long-term care administration and advocacy. He currently serves as Vice President of Elder Care Services for the St. Mary’s Health Care System in Lewiston, Maine, and I look forward to hearing his perspective on this important issue.

Again, Mr. Chairman, thank you for calling this hearing.