

Admitted or Not? The Impact of Medicare Observation on Seniors

U.S. Senate Special Committee on Aging

Testimony of Sylvia C. Engler Framingham, Massachusetts

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Committee Chairman Nelson, Ranking Member Collins, and members of the Committee, thank you for the opportunity to tell you the story of my family and the Medicare “observation” rules.

My name is Sylvia C. Engler, age 83. I am still employed in the medical field and still working. I live in Framingham, Massachusetts. My husband Harold, age 92, and I have been married for 60 years. He was Vice President of Sales and Marketing for the Convention and Traveling Industry. He worked till age 90. For most of his life, the only medical conditions Harold had were COPD and asthma which have been controlled for years. Five years ago, at age 87, Harold had a heart triple bypass and went back to work in three months. Three months later he had urgent hernia surgery. The doctor told him that it was required. He was in the hospital for only 2 1/2 days and was classified as an “inpatient.” There was no problem with that. He recovered, and then continued to work.

Last year on March 28, 2013, at age 91, he again urgently needed hernia surgery. This time it was a double hernia. His doctor told me to take him to the emergency room at Beth Israel

Hospital in Boston. He had emergency surgery and stayed in the hospital for 5 days as complications set in. He was bleeding and passing blood clots in his urine. For the first time, he had to have a catheter. Five days later, on April 2, 2013, he was discharged home with the catheter still in place. He was only home for two days when he had to return to the hospital. On April 4th, he woke up vomiting bile, with diarrhea, and had a high temperature. He was sent back to the same Boston hospital by ambulance. He had fluid in his lungs, a temperature of 101, and possible pneumonia. Again he had blood in his urine. I was told that he had contacted a virus in the hospital. They had to tap fluid from his lungs. He stayed in this hospital for another 5 days.

On April 10, 2013 he was sent home again, unable to walk or stand alone. The Foley catheter was still in place. He could not get out of the automobile. My daughter and I actually had to pull him from the car as he could not walk by himself. Harold had to use a walker while I helped balance him. He sat down on our bed and collapsed. His complexion turned grey. He had chest pains, shortness of breath, and severe pain from the catheter. Thinking it was his heart, I gave him a nitroglycerin pill which made his condition worse. I called the local ambulance and he was taken to the local hospital. The ER doctor stated that if he was my patient he never would have been sent home in this condition. Harold could not walk or stand up. On the same day that he was released from the Boston hospital the second time, after a total of 10 days in the hospital, he was sent from the local ER to a local nursing home for rehab.

I thought Medicare would pay for Harold's nursing home care because he had been in the hospital for 10 days and he needed rehab. I learned from the nursing home that Harold had never been admitted to the hospital as an inpatient. The nursing home told me that Harold was "medical observation" when he was in the hospital. This did not make sense to me because

Harold was on a floor with other inpatients and received care just like an inpatient in a hospital. The hospital never told me that he was “medical observation”; they said nothing about it. Harold remained in the nursing home 6 weeks for rehab. The administrator told me that we had to pay the nursing home \$7,859.00 immediately upon leaving, or the bill would be put into collection for the full amount of \$15,000 or my house would have been attached for the full amount. We paid the \$7859.00, but I had to cash a money market account to pay the bill.

I looked for someone who could help us fight this and found a wonderful lawyer, Diane Paulson, of the Medicare Advocacy Project at Greater Boston Legal Services. Diane has been working with me for over a year to try to get Medicare to cover the nursing home bill. She keeps appealing, but Medicare keeps telling us that we can’t appeal the hospital’s decision to call my husband “medical observation” and that since he was not an inpatient, Medicare won’t cover his nursing home bill. I later found out that the hospital had to pay back millions of dollars to Medicare because they called some patients inpatients instead of outpatients. I think this is why my husband was called observation. Harold was able to remain at home for several months after he was discharged from the rehab. But then he had to go to a nursing home for patients with dementia, where he remains to this day. I am still fighting this battle with the help of my lawyer.

Thank you for listening to my unfortunate situation. I hope you will make changes so that this won’t happen to anyone else.