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Certain MA Rule Language 'Gives You Much More to Work With' in Appealing Claim Denials

By Nina Youngstrom

Although the world opened up for hospitals and other providers with the April regulation that requires Medicare Advantage (MA) plans to abide by the two-midnight rule, inpatient-only list and other traditional Medicare coverage criteria, some experts expect resistance from MA plans.^[1] They predict that CMS intervention will be a necessity to ensure MA compliance, but also see language in the rule that will help fend off denials or at least supercharge appeals when the rule takes effect Jan. 1.

"We are all waiting with bated breath as to how the MA plans are going to deal with that regulation," said Phillip Baker, M.D., assistant vice president and chief medical revenue officer at Self Regional Healthcare in South Carolina. With respect to the two-midnight rule, for example, observation rates are about 22% to 24% for traditional Medicare versus 36% to 38% for MA contracted plans. For a long time, Self Regional mostly didn't have contracts with MA plans, which meant they had to follow traditional Medicare even before the rule, but now the health system has signed with several. "It hurts my soul," Baker said. "Every one we sign will cost us money."

Baker is skeptical MA plans will respond to the new rule until CMS enforces it. He's not alone. It's imperative to keep CMS informed of "payers not complying with the final rule," although working with the MA compliance department may be productive, said Kendall Smith, M.D., chief physician advisor for PayerWatch, at a June 21 webinar sponsored by the firm.

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