



Wellcare By Allwell

Medicare Advantage

2024 CMS Two-Midnight Rule Provider FAQ

Does the two-midnight benchmark apply to Medicare Advantage plans?

Yes. Medicare Advantage plans must provide coverage and pay for an inpatient admission when, based on consideration of complex medical factors (*e.g.*, history and comorbidities, the severity of signs and symptoms, current medical needs, the risk of an adverse event occurring during hospitalization) documented in the medical record, the admitting physician expects the patient to require hospital care that crosses two midnights.¹ Medicare Advantage Plans may still use prior authorization or concurrent case management review to determine if the complex medical factors are sufficiently documented in the medical record to support medical necessity of the inpatient admission.²

Does the two-midnight rule presumption apply to Medicare Advantage plans?

No. The presumption that all inpatient claims that cross two midnights are appropriate for payment and therefore should not be the focus of medical review does not apply to Medicare Advantage Plans. The two-midnight presumption directs medical reviewers to select Original Fee-for-Service Medicare Part A claims for review under a presumption that hospital stays that span two midnights after an inpatient admission are reasonable and necessary Part A payment.³

Does Wellcare utilize medical necessity criteria?

Yes. Medicare Advantage plans such as Wellcare may apply internal coverage criteria when coverage criteria is not fully established in Medicare laws, national coverage determinations and/or local coverage determinations. As such, Medicare Advantage plans are permitted to create their own internal coverage criteria based upon widely-used treatment guidelines or clinical criteria, and may use coverage criteria products such as InterQual® or the like.⁴

¹ 88 Fed. Reg. 22120, 22191 (April 12, 2023).

² *Id.* at 22192.

³ *Id.*

⁴ *Id.* at 22194-22195.

Is the two-midnight benchmark enough to qualify an inpatient admission for coverage?

No. Wellcare reviews inpatient admissions within the context of the patient's medical record to evaluate whether the patient's documented complex medical factors support hospital care that exceeds two midnights. As stated above, Wellcare reviewers may consider other coverage criteria such as InterQual when conducting medical necessity reviews.

Can stays less than 24 hours qualify for inpatient admission payment?

In the majority of cases, hospital stays less than 24 hours do not meet criteria for payment as an inpatient stay. However, hospital services that do not exceed two midnights may be medically necessary in certain cases, such as an unexpected death, patient departure against medical advice, election of hospice in lieu of continued treatment in a hospital, and for a procedure on the CMS Inpatient Only List.

Does Wellcare follow the case-by-case exception?

Yes. Generally, medical necessity will be met if an admitting physician does not expect a patient to require hospital care exceeding two midnights, but determines, based on complex medical factors documented in the medical record, that inpatient care is nonetheless necessary.⁵

⁵ Id. at 22191.