

## STATEMENT FOR THE RECORD

### HOUSE WAYS AND MEANS HEALTH SUBCOMMITTEE HEARING “PROTECTING PATIENTS FROM SURPRISE MEDICAL BILLS” May 21, 2019

#### National Observation Stays Coalition

Chairman Doggett, Representative Nunes, and distinguished Members of the Health Subcommittee, thank you for the opportunity to share the perspectives of the Observation Stays Coalition as the Subcommittee examines protecting patients from surprise medical bills.

The undersigned organizations of the Observation Stays Coalition have come together to address a surprise medical billing issue that affects Medicare patients in hospitals who are called observation status patients or outpatients, although the medically necessary care they need and receive is no different from the medically necessary care provided to formally admitted inpatients. The classification as observation or outpatient is significant, however, because the Medicare statute covers a post-hospital stay in a skilled nursing facility only if the patient was hospitalized for three consecutive days as an *inpatient*.

Recent efforts have focused on eliminating burden and unanticipated/surprise medical bills that are having a significant negative impact on out-of-pocket-costs and patient-provider relationship. The observation stays matter is one such area that should be addressed as part of comprehensive efforts to eliminate surprise medical bills. Counting observation status toward the 3-day inpatient requirement in the Medicare program is a common-sense policy that does not affect hospital care -- but does protect the ability of beneficiaries to receive needed post-acute nursing home care.

Earlier this Congress, the bipartisan legislation *Improving Access to Medicare Coverage Act* (H.R. 1682/S. 753), sponsored by Representatives Courtney and ‘GT’ Thompson and Senators Brown, Collins, Whitehouse, and Capito, was re-introduced to update a current loophole in Medicare policy that would help protect seniors from high -- and often -- surprise medical costs for the skilled nursing facility care they require after hospitalization. The *Improving Access to Medicare Coverage Act* would allow for the time patients spend in the hospital under “observation status” to count toward the requisite three-day hospital stay for coverage of skilled nursing care. This legislative fix is important for several reasons, including the fact that our nation’s most vulnerable seniors could be surprised with high out-of-pocket costs due to being admitted to the hospital under observation status.

There are currently 33 national beneficiary and provider organizations that support this legislation, and it is our hope that this issue gets addressed in this Congress. Unfortunately, there have been countless heart-wrenching stories from older people and their families who have had to pay high out-of-pocket charges since they were deemed to be on observation status, and Medicare did not cover their necessary skilled nursing facility care. Often, these individuals didn’t even know they were on observation status -- or know to ask. But even if they received and understood the Medicare Outpatient Observation Notice (MOON), required by the Notice of Observation Treatment and Implication for Care Eligibility Act (NOTICE Act) and advising them of their outpatient status, they have no right to appeal and to request that their status be changed to inpatient.

It is simply not right to limit access to quality care for those most in need. Now is the time for Congress to pass legislation that addresses this issue once and for all. Thank you again for the opportunity to weigh in on this important matter. The Coalition looks forward to working with Members of Congress in both chambers on the observation stays issue.

Sincerely,

American Association of Healthcare Administrative Management (AAHAM)  
American Association of Post-Acute Care Nursing (AAPACN)  
Aging Life Care Association®  
American Geriatrics Society (AGS)  
American Health Care Association (AHCA)  
Association of Jewish Aging Services (AJAS)  
Alliance for Retired Americans  
AMDA - The Society for Post-Acute and Long-Term Care Medicine  
American Physical Therapy Association (APTA)  
Center for Medicare Advocacy  
The Jewish Federations of North America  
Justice in Aging  
LeadingAge  
Medicare Rights Center  
National Academy of Elder Law Attorneys, Inc. (NAELA)  
National Association of Health Care Assistants (NAHCA)  
National Association of State Long-Term Care Ombudsman Programs (NASOP)  
National Association for the Support of Long Term Care (NASL)  
National Center for Assisted Living (NCAL)  
The National Consumer Voice for Quality Long-Term Care  
Society of Hospital Medicine (SHM)  
Special Needs Alliance