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August 20, 2025

Mehmet Oz, MD
Administrator
Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

RE: Aetna's new Medicare Advantage inpatient admission payment policy

Dear Administrator Oz:

The Healthcare Association of New York State and our member hospitals, health systems and other healthcare providers strongly oppose the Medicare Advantage inpatient policy Aetna announced on Aug. 1. We believe this new policy violates CMS' "two-midnight rule," unfairly reduces hospital reimbursement and breaches Aetna's contracts with hospitals. We request that CMS instruct Aetna to immediately withdraw this policy.

Effective Nov. 15, Aetna is adopting a new reimbursement policy for urgent and emergent inpatient hospital admissions of one or more midnights. Under this new approach, Aetna will approve an inpatient stay without medical necessity review but will not pay the contracted rate unless it meets the MCG Health inpatient criteria.

Aetna will instead only pay the hospital at "a lower level of severity rate" comparable to the hospital's contracted rate for observation services. Aetna explicitly states it will use MCG to determine the severity of an inpatient admission and whether that severity justifies the inpatient contracted rate.

This is a direct violation of CMS' rule at 42 CFR 422.101, which requires Medicare Advantage plans to adhere to the two-midnight rule.

Under a January 2024 final rule that was confirmed in a subsequent frequently asked questions document, CMS made clear that MA plans must follow the two-midnight benchmark criteria for inpatient admissions.

This means the MA plan must provide coverage for an inpatient admission when:

- the admitting physician expects the patient to require hospital care that crosses two midnights (§ 412.3(d)(1);
- the admitting physician does not expect the patient to require care that crosses two midnights, but determines, based on complex medical factors documented in the medical record that inpatient hospital care is nonetheless necessary (§ 412.3(d)(3)); or
- inpatient admission is for a surgical procedure specified by Medicare as inpatient only (§ 412.3(d)(2)).

Aetna's announced policy is a clear attempt to avoid these requirements.

CMS has explicitly stated that MA plans may not use tools such as MCG to alter coverage or payment criteria already established under traditional Medicare.

Furthermore, Aetna's new policy eliminates peer-to-peer clinical reviews and appeal opportunities and treats the lower payment as a contractual adjustment. This approach undermines physician judgment, bypasses established medical review safeguards and shifts financial risk to hospitals that are already operating under significant resource constraints.

By reducing reimbursement without a fair review process, this policy threatens patient access to care, hospital sustainability and the collaborative payer-provider relationships necessary for high-quality care.

We request that CMS immediately instruct Aetna to withdraw this policy. If you have questions, please contact me at 518.431.7889 or vaufiero@hanys.org.

Sincerely,

Victoria Aufiero, Esq.
Vice President, Insurance, Managed Care and Behavioral Health