

## Outpatient Observation versus Inpatient and Midnight Rule

### Purpose

To define the Plan's coverage and member co-payment for outpatient observation versus inpatient admission and clarify the midnight rules for outpatient observation and inpatient admission.

### Scope

This policy will determine the guideline for coverage of outpatient observation versus inpatient admission and midnight rules for outpatient observation and inpatient admission.

### Policy

Outpatient observation is an alternative to inpatient admission. A physician order documented as "admit" will be treated as an inpatient admission and will follow the Plan's policy and procedure for inpatient admission. A physician order documented as "place patient in outpatient observation" will follow the Plan's policy and procedure for outpatient observation requests.

### Definitions:

Inpatient admission – an order documented "admit admission"

Observation – an order documented "place patient in outpatient observation"

Care in outpatient observation can be the same as inpatient care, but reimbursement is different.

### Procedures:

1. Coverage for outpatient observation:
  - **Ventura County Medical Center (VCMC) Facilities:**
    - Is limited to no more than 2 midnights.
    - Two (2) midnight timing starts at time of "assign to observation" order as documented in the Cerner electronic health record (EHR) **MD order**.
    - After the second midnight, at 12:01 am, Cerner will prompt the VCMC physicians to change the status to inpatient. The physician is to document/order "inpatient admission" in the Cerner EHR **MD order**. This applies even if the patient discharges the day after the second midnight.
    - If the outpatient observation status is converted to inpatient, **the entire patient stay will be considered as inpatient stay**. The inpatient stay will follow the Plan's inpatient

review process, including review for medical necessity, and the Plan's member co-payment structure for inpatient admission.

- There is no prior authorization required for observation.

- **NON VCMC Facilities [note: applies to contracted (including tertiary) and non-contracted facilities]:**

- Maintain the 24-hour observation rule with a start and end time to equal 24 hours. Stay over the 24 hours is considered an inpatient admission.
- There is no prior authorization required for observation.

2. During Concurrent or Retrospective Concurrent Review:

- **VCMC Facilities:**

- After 2 midnights (at 12:01am to 11:59 pm), the Plan will convert the outpatient observation status to an inpatient admission after verifying in Cerner EHR the MD order of inpatient admission status. This applies even if the patient discharges the day after the second midnight (12:01 am to 11:59 pm). **The whole stay will be reviewed for medical necessity as inpatient admission.**
- Refer to the MD order ONLY in Cerner EHR for observation or inpatient status. The last documentation of status (in the MD Order) will be used to determine whether the stay/request is inpatient admission or observation status.
- Documentation must support the level of care provided for request of inpatient admissions.
- If the ordered inpatient admission is denied as not medically necessary (e.g., physician ordered inpatient incorrectly), VCMC Utilization Reviewer (UR) will email Ventura County Health Care Plan's (VCHCP) Concurrent Review Nurse and Health Services Director to inform them that VCMC UR is withdrawing their request for inpatient admission and will bill as observation. VCHCP Concurrent Review Nurse will cancel the inpatient case in the Medical Management system (QNXT) and will note in case notes that VCMC UR is withdrawing their request and will be billing as observation.

- **Non VCMC facilities [note applies to contracted (including tertiary) and non-contracted facilities] maintain the 24-hour observation rule.**

3. An outpatient observation may progress to inpatient status:

- **VCMC Facilities:**

- Before 2 midnights in outpatient observation status when it is determined that the patient's condition requires an inpatient level of care and it is determined to be medically necessary.
  - **Non VCMC facilities [note applies to contracted (including tertiary) and non-contracted facilities]** maintain the 24-hour observation rule.
4. If the member comes in the Emergency Room (ER) and the stay is converted to observation status:
    - **VCMC Facilities:**
      - The ER member co-payment applies.
    - **Non VCMC Facilities (including non-contracted and tertiary facilities):**
      - The ER member co-payment applies.
  5. If the member is directly placed on outpatient observation status without going through the ER (e.g., Obstetrics – OB observation without coming from ER):
    - **VCMC Facilities:**
      - There is no member co-payment.
    - **Non VCMC Facilities (including non-contracted and tertiary facilities):**
      - There is a 10% up to \$250.00-member co-payment
  6. If claims operations receive a claim for outpatient observation:
    - **VCMC Facilities:**
      - For stay beyond 2 midnights and there is NO prior authorization, claims operations will reimburse for observation for 2 midnights ONLY.
    - **Non VCMC facilities [note applies to contracted (including tertiary) and non-contracted facilities]:**
      - Maintain the 24-hour observation rule.
  7. Normal Spontaneous Vaginal Delivery (NSVD) and Cesarean Section (C-section) Midnight Rule Clarifications:
    - **VCMC Facilities** (No Concurrent Authorization required if discharge within 2 days [48 hours] for NSVD and within 4 days [96 hours] for C-Section); **Non VCMC Facilities** (Concurrent Authorization **Required** for all admissions)
      - **NSVD:**
        - Vaginal delivery on 01/01/17 (Post-delivery day 1) (First Midnight)
        - Post-delivery day 2 - 01/02/17 (Second Midnight)
        - Discharge date - 01/03/17 (2 days)

- **C-Section (CS):**
  - CS delivery on 01/01/17 (Post-delivery day 1) (First Midnight)
  - Post CS delivery day 2 - 01/03/17 (Second Midnight)
  - Post CS delivery day 3 - 01/04/17 (Third Midnight)
  - Post CS delivery day 4 - 01/05/17 (Fourth Midnight)
  - Discharge Day - 01/05/17 (4 days)
- **Following are 2 scenarios (NSVD & CS)** for which claims will look for an authorization (Note: anytime the total days go over the 2 days for vaginal delivery and 4 days for C-section, claims will look for authorization).
  - Scenario #1:
    - Patient in labor but did not deliver – 1/1/17 (First Midnight)
    - Vaginal delivery on 1/2/17 (Post-delivery day 1) (Second Midnight)
    - Post-delivery day 2 – 1/3/17 (Third Midnight)
    - Discharge day – 1/4/17
    - (3 days – requires an authorization because total days are more than 2 days for vaginal delivery)
  - Scenario #2:
    - Patient in labor but did not deliver - 1/1/17 (First Midnight)
    - CS delivery on 1/2/17 (Post-delivery day 1) (Second Midnight)
    - CS delivery day 2 – 1/3/17 (Third Midnight)
    - CS delivery day 3 – 1/4/17 (Fourth Midnight)
    - CS delivery day 4 – 1/5/17 (Fifth Midnight)
    - Discharge day – 1/6/17
    - (5 days – requires an authorization because total days are more than 4 days for C-section)
- **Vaginal and Cesarean delivery** before 6 pm and after 6 pm
  - If delivery is after 6 pm, one (1) additional day post-delivery is medically necessary and authorized.
  - If delivery is before 6 pm, no additional day post-delivery day is medically necessary and is not authorized.

8. See below for flow sheet protocol for observation vs. inpatient admission.

**A. Attachments:** none

**B. References:**

Centers for Medicare & Medicaid Services, February 2010;  
<http://www.cms.hhs.gov/manuals/Downloads/bp102c01.pdf>  
[http://acute.hsag.com/HOW/041207/09\\_Medicare-INPvOBV-  
DecisionsGUIDELINES\\_April2007.pdf](http://acute.hsag.com/HOW/041207/09_Medicare-INPvOBV-<br/>DecisionsGUIDELINES_April2007.pdf)  
<http://www.hcpro.com/content/222633.pdf>

**C. Review & Revision History:**

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Revision Date	Content Revised (Yes/No)	Contributors	Review/Revision Notes
2/9/17	Yes	Catherine Sanders, MD; Robert Sterling, MD, Faustine Dela Cruz, RN	Annual review; updated to allow 2 midnights observation for VCMC facilities ONLY. Non VCMC facilities maintain the 24 hour observation rule.
8/10/17	Yes	Catherine Sanders, MD; Robert Sterling, MD, Faustine Dela Cruz, RN	Basic Guide for Case Managers Using the Two-Midnight Rule ( <b>for VCMC only</b> )
11/9/17	Yes	Catherine Sanders, MD; Robert Sterling, MD, Faustine Dela Cruz, RN	<ul style="list-style-type: none"> <li>• Clarification of 2 midnight rule for VCMC.</li> <li>• Process for VCMC to bill for observation when the inpatient request is denied.</li> <li>• Observation copayment for VCMC and Non VCMC facilities</li> <li>• Copayment for observation.</li> <li>• Midnight Rule Clarification for NSVD and C-Section</li> <li>• Additional day for deliveries after 6 pm.</li> </ul>
2/8/18	No	Catherine Sanders, MD; Robert Sterling, MD, Faustine Dela Cruz, RN	Annual review

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8/27/18	Yes	Catherine Sanders, MD; Robert Sterling, MD, Faustine Dela Cruz, RN	Removed prior authorization for observation with contracted non VCMC Facilities.
2/14/19	Yes	Catherine Sanders, MD; Robert Sterling, MD, Faustine Dela Cruz, RN	Clarified that Non-VCMC facilities is for contracted facilities
3/14/19	Yes	Robert Sterling, MD, Faustine Dela Cruz, RN	Observation for Contracted (Including Tertiary) and Non-Contracted Facilities Including Labor & Delivery Observation no longer requires prior authorization effective 3/14/19
2/13/20	No	Howard Taekman, MD; Robert Sterling, MD, Faustine Dela Cruz, RN	Annual review
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Outpatient Vs Inpatient Admission Protocol

