

## Notice of Observation Treatment and Implication for Care Eligibility Act

[Public Law 114–42]

[This law has not been amended]

【Currency: This publication is a compilation of the text of Public Law 114-42. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

AN ACT To amend title XVIII of the Social Security Act to require hospitals to provide certain notifications to individuals classified by such hospitals under observation status rather than admitted as inpatients of such hospitals.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. [42 U.S.C. 1305 note] SHORT TITLE.

This Act may be cited as the “Notice of Observation Treatment and Implication for Care Eligibility Act” or the “NOTICE Act”.

### SEC. 2. MEDICARE REQUIREMENT FOR HOSPITAL NOTIFICATIONS OF OBSERVATION STATUS.

Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) is amended—

- (1) in subparagraph (V), by striking at the end “and”;
- (2) in the first subparagraph (W), by striking at the end the period and inserting a comma;
- (3) in the second subparagraph (W)—
  - (A) by redesignating such subparagraph as subparagraph (X); and
  - (B) by striking at the end the period and inserting “, and”; and
- (4) by inserting after such subparagraph (X) the following new subparagraph:

“(Y) beginning 12 months after the date of the enactment of this subparagraph, in the case of a hospital or critical access hospital, with respect to each individual who receives observation services as an outpatient at such hospital or critical access hospital for more than 24 hours, to provide to such individual not later than 36 hours after the time such individual begins receiving such services (or, if sooner, upon release)—

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“(i) such oral explanation of the written notification described in clause (ii), and such documentation of the provision of such explanation, as the Secretary determines to be appropriate;

“(ii) a written notification (as specified by the Secretary pursuant to rulemaking and containing such language as the Secretary prescribes consistent with this paragraph) which—

    “(I) explains the status of the individual as an outpatient receiving observation services and not as an inpatient of the hospital or critical access hospital and the reasons for such status of such individual;

    “(II) explains the implications of such status on services furnished by the hospital or critical access hospital (including services furnished on an inpatient basis), such as implications for cost-sharing requirements under this title and for subsequent eligibility for coverage under this title for services furnished by a skilled nursing facility;

    “(III) includes such additional information as the Secretary determines appropriate;

    “(IV) either—

        “(aa) is signed by such individual or a person acting on such individual’s behalf to acknowledge receipt of such notification; or

        “(bb) if such individual or person refuses to provide the signature described in item (aa), is signed by the staff member of the hospital or critical access hospital who presented the written notification and includes the name and title of such staff member, a certification that the notification was presented, and the date and time the notification was presented; and

    “(V) is written and formatted using plain language and is made available in appropriate languages as determined by the Secretary.”.