Attachment B: Response to Comments
60-day Federal Register Notice

Comment 1: Medicare documents (e.g., EOC) do not clearly state what constitutes an inpatient hospital stay day. As a result, a beneficiary could end up paying a copayment in error.

At the very bottom of the EOC excerpt below is the commenter's suggested language, in bold.

*"**Are You a Hospital Inpatient or Outpatient? If You Have Medicare – Ask!***

Did you know that even if you stay in the hospital overnight, you might still be considered an "outpatient"? Your hospital status (whether the hospital considers you an "inpatient" or "outpatient") affects how much you pay for hospital services (like X-rays, drugs, and lab tests) and may also affect whether Medicare will cover care you get in a skilled nursing facility (SNF).

You're an inpatient starting the day you're formally admitted to the hospital with a doctor's order. The day before you're discharged is your last inpatient day.

You're an outpatient if you're getting emergency department services, observation services, outpatient surgery, lab tests, or X-rays, and the doctor hasn't written an order to admit you to the hospital as an inpatient. In these cases, you're an outpatient even if you spend the night at the hospital

Note: Observation services are hospital outpatient services given to help the doctor decide if the patient needs to be admitted as an inpatient or can be discharged. Observation services may be given in the Emergency Department(ED) or another area of the hospital."

Also – "currently the Annual Notice of Change and Summary of Benefits documents do not contain language clarifying when a Medicare beneficiary is an inpatient vs. an outpatient. As a result there is the potential for a beneficiary to be charged an incorrect copayment or to be charged a copayment for an additional inpatient day."

He also feels that an example should be given as to what constitutes a billable day. The example language he provided was:

*"For example where the provider indicates the charge per day it should have an asterisk.... for example. Inpatient hospital care section......empires booklet page 8, 2013 edition in Network days 1-7 $150 copay per day**** "**You are not required to pay a copayment for the day of discharge and the hospital should not charge you for it. Check your bill.**"*

Response: CMS will require plans to clarify whether their hospital copayments or coinsurance apply on the date of admission and/or on the date of discharge by adding a bullet to page 59 of Chapter 4 which reads as follows: ***Plans must make it clear for enrollees (in the sections were enrollee cost sharing is shown) whether their hospital copays or coinsurance apply on the date of admission and/or on the date of discharge.***