

*Comment:* Many commenters urged CMS to apply specific revisions to the proposed MCSN. A few commenters suggested we ensure the final MCSN clearly describes, using plain language, the fact that the beneficiary was reclassified from inpatient to outpatient receiving observation services and the availability of appeal rights. Other commenters requested CMS ensure the finalized MCSN accurately describes the benefits and risks of the proposed appeal process.

A commenter suggested we incorporate check boxes to the list of ramifications for hospitals to use when completing the MCSN. The commenter believes the check boxes will assist beneficiaries in identifying the information that is relevant to them and may reduce hospital burden when delivering the MCSN by reducing the number of beneficiary questions. The same commenter suggested we add a new section explaining that beneficiaries without Part B may be charged for the full cost of their stay. Another commenter felt the MCSN is directed to a broader class of beneficiaries than set forth at § 405.1210(a) and suggested all the elements from § 405.1210(a) be listed on the MCSN.

Several commenters suggested we remove from the beneficiary acknowledgement and signature block the statement “I also understand if I win my appeal, my hospital charges will be different and possibly higher.” The commenters found the tone of this language alarming and believe the statement may act to deter beneficiaries from appealing their reclassification when, in many cases, the beneficiary’s risk of higher hospital charges is relatively low.

Other commenters recommended we add a disclaimer to the proposed MCSN explaining beneficiaries do not have financial liability protection while their appeal is pending. Several commenters requested we add a statement to the proposed MCSN advising beneficiaries that leaving the hospital will not impact a pending appeal and they will still receive notice of the

appeal decision. Similarly, a commenter predicted beneficiaries would be concerned about the impact leaving the hospital would have on a pending appeal.

A commenter suggested we reorder the list of potential ramifications from a status reclassification, found in the introductory paragraph, to have information related to SNF coverage precede, rather than follow, information related to changes to the beneficiary's hospital bill. The commenter reasoned SNF eligibility is relevant to all beneficiaries that receive the MCSN, has a greater financial impact, and has a more immediate impact on a beneficiary's health than potential changes to a beneficiary's hospital charges.

*Response:* We appreciate the commenters' support and wide range of suggested modifications for the proposed MCSN and we will be incorporating several commenters' suggested edits to the proposed MCSN that we believe will increase beneficiary understanding of the status change and the potential ramifications.

We added check boxes to the list of potential ramifications for the hospital staff to indicate which items apply to the beneficiary receiving the notice. We also added an explanation that eligible beneficiaries without Part B may be charged for the full cost of the outpatient stay, due to the hospital status change. Further, we simplified and streamlined language throughout the notice, including in the list of potential ramifications, to increase readability.

We also revised the MCSN to confirm that a beneficiary may initiate a standard appeal after leaving the hospital and to clarify that a beneficiary who requested a timely expedited determination will receive notice of the QIO decision even if they leave the hospital before the decision is made. We agree with commenters on the importance of including these clarifications on the MCSN to enhance beneficiaries understanding and comfortability with the new appeals process.

In addition, we added text to the MCSN to explain if the beneficiary remains in the hospital during the appeals process and they receive an unfavorable appeal decision, the beneficiary could be responsible for the cost of the Part B coinsurance and applicable deductible for any covered services and the full cost of any non-covered services received during the appeals process. We agree with commenters on the importance of beneficiaries understanding that the appeals process does not provide the same liability protections afforded when being discharged from a covered inpatient stay. However, we did not add an explanation that a hospital could release a beneficiary during an appeal, as suggested by some commenters, because hospital decisions related to safely releasing patients following treatment falls outside the scope of this appeals process. Hospitals must continue to assess the appropriateness of release by applying the beneficiary's particular medical circumstances, using their usual operating procedures, and in accordance with all applicable laws.

We have removed from the beneficiary acknowledgement and signature block text stating beneficiaries may face higher hospital charges upon a successful appeal. We agree with commenters that some beneficiaries could be alarmed by such a warning and potentially not proceed with an appeal they otherwise would want to pursue.

We did not believe it necessary or prudent to add details on the criteria necessary for a beneficiary to receive the MCSN and pursue an appeal relating to their hospital status reclassification. We believe including such detailed information about the appeals criteria would likely be confusing to beneficiaries and is unnecessary for them to decide whether to appeal. Importantly, the MCSN will only be delivered to those beneficiaries eligible to appeal. Finally, while we agree that Medicare not covering a SNF stay following a status change from inpatient to outpatient receiving observation services is an important ramification for

beneficiaries, we did not reorder the list in the notice to reflect this. Through the course of consumer testing of the MCSN after reordering the notice to list SNF coverage information before information on potential hospital coverage, it was apparent that discussing SNF coverage after discussing the hospital coverage was confusing to beneficiaries.