

TO: Maryland Ambulatory Surgical Centers

FROM: Barbara Fagan
Program Manager, Office of Health Care Quality

RE: Overnight Stay in Ambulatory Surgical Centers

DATE: June 25, 2014

The purpose of this transmittal is to clarify the regulations and statutes concerning a patient's overnight stay in an Ambulatory Surgical Center. Under Maryland law, the Health-General Article, §19-3B-01(b), defines an Ambulatory Surgical Center as an entity that "operates primarily for the purpose of providing surgical services to patients requiring a period of postoperative observation but not requiring overnight hospitalization." The Department acknowledges that, on rare occasion, it may be necessary to observe a patient longer than the anticipated recovery period due to an unforeseen situation. In these cases, patient safety should be the primary driver and all precautions should be taken to meet the patient's needs.

In its Medicare Conditions for Coverage regulations, 42 CFR §416.2, the Centers for Medicare and Medicaid Services (CMS) defines an Ambulatory Surgical Center (ASC) as a "distinct entity that operates exclusively for the purpose of providing surgical services to patients not requiring hospitalization and in which the expected duration of services would not exceed 24 hours following admission." Based on CMS's interpretive guidelines, the 24-hour mark begins when the patient is checked in and ends when the patient is discharged from the facility, independent of time of day. Also, according to 42 CFR §416.166, an ASC may only perform procedures "that would not be expected to pose a significant safety risk to a Medicare beneficiary when performed in an ASC, and for which standard medical practice dictates that the beneficiary would not typically be expected to require active medical monitoring and care at midnight following the procedure."

The Department is considering legislation to be introduced in the next legislative session that would amend the State statute to mirror the Federal definition. States may set stricter standards than Federal guidelines; therefore, until, the State statute is amended, the current definition is upheld.

If you have any questions, please contact Barbara Fagan at 410-402-8041 or barbara.fagan@maryland.gov