

# HOUSE BILL REPORT

## ESHB 1186

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**As Passed House:**  
March 9, 2015

**Title:** An act relating to notifications to patients in observation status at hospitals.

**Brief Description:** Requiring notifications to patients in observation status at hospitals.

**Sponsors:** House Committee on Health Care & Wellness (originally sponsored by Representatives Clibborn, Springer, Johnson, Senn, Moeller, McBride, Walkinshaw, Caldier and Fey).

**Brief History:**

**Committee Activity:**

Health Care & Wellness: 2/6/15, 2/13/15 [DPS].

**Floor Activity:**

Passed House: 3/9/15, 98-0.

**Brief Summary of Engrossed Substitute Bill**

- Requires hospitals to provide patients with information about the implications of being placed on observation status.

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### HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Cody, Chair; Riccelli, Vice Chair; Schmick, Ranking Minority Member; Harris, Assistant Ranking Minority Member; Caldier, Clibborn, Jinkins, Johnson, Moeller, Robinson, Tharinger and Van De Wege.

**Minority Report:** Do not pass. Signed by 3 members: Representatives DeBolt, Rodne and Short.

**Staff:** Chris Blake (786-7392).

**Background:**

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Medicare is a federally operated program that provides insurance to people over 65 years old and those who are under 65 years old and have been deemed disabled under the Social Security Act. Medicare covers inpatient care in hospitals and skilled nursing facilities, hospice-care services, and home-care services. Additional medically necessary benefits are also covered, including physician services, outpatient care, and durable medical equipment.

Medicare policies define "observation status" as clinically appropriate services that are provided to a patient in a hospital while a decision has yet to be made as to whether the patient should be admitted as an inpatient or discharged. These services include short-term treatment, assessment, and reassessment. Medicare policy indicates that decisions on hospital admission or discharge can usually be made in less than 24 hours and only "rare and exceptional" cases require more than 48 hours in observation status.

Medicare enrollees who have spent at least three consecutive days as an inpatient of a hospital may receive certain post-hospital extended care services under Medicare. Extended care services include skilled nursing services or skilled rehabilitation services provided at a skilled nursing facility. Time spent in observation status or in an emergency department does not count toward the three-day prior-stay requirement.

**Summary of Engrossed Substitute Bill:**

A hospital must provide oral and written notification to each patient or the patient's legal representative within 24 hours of the patient being classified as an outpatient in observation status by the hospital, unless the patient has been discharged or has left the hospital within 24 hours. The notice must include the following information:

- a statement that the patient is under observation status and is not admitted to the hospital;
- a statement that observation status may affect the patient's insurance coverage for hospital services, home or community-based care, or skilled nursing facilities; and
- recommendations to contact the patient's insurance provider for more information about the implications of being determined to be in observation status and to conduct a timely review of benefit statements and contact the patient's insurer with any questions.

"Observation status" is defined as the classification of a patient as an outpatient while a decision is made to either admit the patient as a hospital inpatient or discharge the patient from the hospital.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) Many people are going into the hospital without understanding what observation status means and it impacts their ability to plan for leaving the hospital. This gives patients the information that they need to plan for their care. Hospitals should educate patients so that they understand their status within 24 hours. The hospitals are not communicating information to patients.

There has been an 88-percent increase in observation status for Medicare patients between 2006 and 2012, resulting in more older adults experiencing a much higher payment for services. Trips to hospitals are stressful enough without having to worry about finances and surprises at discharge. Patients on observation status are frequently receiving the same care as an inpatient, but paying a very different rate due to copays and higher costs. Observation status places a monetary burden on people who need rehabilitation prior to going home. The Alzheimer's Plan Work Group has been discussing the issue of observation status and its effect on patients' and families' financial status. Three other states have already adopted similar legislation to protect older adults from large expenses.

While there has not been any solution at the federal level, notification can raise awareness. Although Medicare is a federal program, notification is a change that the state can make to protect patients and reduce their stress.

(In support with concerns) This bill might not go far enough. Patients should also be provided with notice of their appeal rights.

(Neutral) "Observation" is not an arbitrary status, but a clinical determination made by a physician under clinical standards. Hospitals must look at a lot of objective and subjective data when determining observation status compared to inpatient status. Providing the information is good, but does not get to the root cause which is what observation status really means.

Patients can become distressed when they learn that they are still in observation status. Some patients leave when finding out that they are only in observation status. Some hospitals already inform their patients of observation status.

This bill will not alleviate the underlying issue which is a federal concern. There is no financial advantage for keeping people in observation status. The proposed substitute bill is good.

(Opposed) None.

**Persons Testifying:** (In support) Representative Clibborn, prime sponsor; Eileen Rasnach and Howard Katz, Bellevue Network on Aging; Carolyn Kelso and Kathy Iverson, Kirkland Senior Council; and Peggy Quan, AARP.

(In support with concerns) Patricia Hunter, Office of the Long-Term Care Ombudsman.

(Neutral) Lisa Thatcher, Washington State Hospital Association; Elizabeth Wheeler, MultiCare Health System; and Kathleen Clary, MultiCare Health System.

**Persons Signed In To Testify But Not Testifying:** None.