

# Medicare Two-Midnight Rule

<https://www.cms.gov/newsroom/fact-sheets/fact-sheet-two-midnight-rule>

The Two-Midnight rule states that Inpatient admissions would generally be approved if the *admitting practitioner* **expected the patient to require a hospital stay that crossed two midnights and the medical record supported that reasonable expectation.**

### This includes inpatient stays in which:

- The physician's **expectation** is supported by documentation, but the length of the actual stay was less than two midnights due to unforeseen circumstances such as **unexpected patient death, transfer, clinical improvement, or departure against medical advice.**
- The physician provides a service on Medicare's **inpatient-only list.**
- There is "**medically necessary**" that counts toward the two-midnight benchmark.

However, hospital time spent receiving **custodial care**, because of **excessive delays**, or incurred because of the **convenience** of the beneficiary or provider **does not count** toward the two-midnight benchmark.

- The clock for calculating the two-midnight rule begins when the beneficiary **starts receiving hospital care**, not when the inpatient order is placed.

Further, care that starts in the **ED** or **at another hospital counts**, too. In contrast, care at an outpatient clinic, an urgent care facility, or waiting-room time in an ED does not count.

### Example - INPATIENT MET:

Patient transferred from another facility to your ED

1<sup>st</sup> MN passes

Next day, provider uses AdmissionCare, and patient meets inpatient criteria on admit

INPT order placed on Day 2

2<sup>nd</sup> MN passes

On Day 3, patient leaves AMA

### Example - INPATIENT NOT MET:

Provider uses AdmissionCare and meets status for observation; placed in observation

1<sup>st</sup> MN passes

Next day, patient remains stable in observation awaiting MRI

UM texts provider requesting INPT order if patient doesn't discharge. Rationale = patient will then cross 2 MNs and meet INPT

MD places Inpatient order

2<sup>nd</sup> MN passes

On Day 3, patient is discharged post negative MRI results

### Teaching Points:

- Documentation in the medical record must support that an inpatient admission is medically necessary
- Cases involving a procedure identified on the inpatient-only list are exceptions to general rule
- One midnight stays can be inpatient due to unforeseen circumstances such as unexpected patient death, transfer, brisk clinical improvement or departure against medical advice.
- ED time, transfers from another facility count towards two midnights
- Delays in service or for patient convenience do not count towards two-midnight benchmark