

NEW YORK
state department of
HEALTH

Nirav R. Shah, M.D., M.P.H.
Commissioner

Sue Kelly
Executive Deputy Commissioner

January 13, 2014

Dear Chief Executive Officer:

The letter is written to inform you of a change to Public Health Law (PHL) with regard to observation status, which became law on October 21, 2013 and becomes effective January 19, 2014. New PHL Section 2805-w requires hospitals to inform patients who are assigned to observation status that they are not admitted to the hospital, but are under observation status. Oral and written notice is required within twenty-four hours of assignment to observation status. The written notice must be signed by the patient or the patient's legal representative to acknowledge receipt. If the patient refuses to sign the notice, documentation of the attempt to provide it and of the refusal must be recorded in the patient's medical record.

At a minimum, the written notice must include that observation status may affect the patient's Medicare, Medicaid and/or private insurance coverage for the current hospital stay, including medications and other pharmaceutical supplies, as well as, coverage for any subsequent discharge to a skilled nursing facility, home, or community-based care. It must encourage the patient to contact his or her insurance plan for more specific information on coverage.

To assist hospitals in complying with this new requirement, a sample written notice has been drafted and is attached to this letter. We thank the Hospital Association of New York State and the Greater New York Hospital Association for their participation and assistance in developing the sample. A hospital may use its own form as long as it meets legal requirements. In addition, the Department expects to release proposed regulatory revisions to further codify the statutory requirements for public comment in the near future.

Thank you in advance for ensuring that your facility implements the revised requirements by January 19th. If you have any questions on the programmatic requirements of this new law or any portions of the observation services rules, please contact Peter Farr at 518-402-1004 or pef02@health.state.ny.us.

Sincerely,

Ruth Leslie
Director
Division of Hospitals and Diagnostic and
Treatment Centers

OBSERVATION NOTICE REQUIREMENTS

[Hospital Name or Logo]

This notice is provided to inform you that you are receiving observation services. You have not been admitted to the hospital.

Observation status may affect your insurance coverage for the current hospital services, including medications and other pharmaceutical supplies, as well as, coverage for any care provided upon discharge by a skilled nursing facility or home and community-based care.

Please contact your insurance plan for specific information about how observation services may impact your insurance coverage.

Patient acknowledgement of receipt of information:

Patient Name: _____

Patient Signature: _____ Date: _____

If patient unable to sign:

Name of Legal Representative: _____

Signature of Legal Representative: _____ Date: _____