

Centers for Medicare & Medicaid Services  
Questions and Answers  
Open Door Forum: Hospital  
Tuesday, February 7, 2023

1. Question: In CMS 4201, you propose to codify the regulation that the Two-Midnight Rule 42 CFR 412.3, is applicable to Medicare Advantage plans. By saying that you want to codify that, it does suggest that that rule is actually in place now, and they are bound by the Two-Midnight Rule, that you're simply putting it into regulation. Is that true?

- a. Answer: At this moment, we can provide: NPRM 87 FR 79452

<https://www.govinfo.gov/content/pkg/FR-2022-12-27/pdf/2022-26956.pdf>

Utilization Management Requirements: Clarifications of Coverage Criteria for Basic Benefits and Use of Prior Authorization, Additional Continuity of Care Requirements, and Annual Review of Utilization Management Tools (§§ 422.101, 422.112, 422.137, and 422.138)

Pgs. 79497-79508

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