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Division of Welfare

Bureau of Facility Standards

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INFORMATIONAL LETTER #94-11

DATE: December 16, 1994

TO: ALL SKILLED NURSING FACILITIES

FROM: JOHN W. HATHAWAY, Chief
Bureau of Facility Standards

SUBJECT: BED-HOLD POLICIES FOR LONG TERM CARE FACILITIES -- INFORMATION

Enclosed is information regarding bed-hold policies for long term care facilities which we received from the Medicaid Division of the Seattle Region X Health Care Financing Administration office.

If you have any questions regarding the enclosed material, you may contact this office by calling 208/334-6626 or by writing to us at:

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John W. Hathaway
JOHN W. HATHAWAY, Chief
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JWH/nah
Enclosure
cc: Idaho Health Care Association

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DEPARTMENT OF HEALTH & HUMAN SERVICES

Health Care
Financing Administration
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TITLE XIX STATE AGENCY LETTER NUMBER 94-36

Subject: Bed-Hold Policies for Long Term Care Facilities - INFORMATION

These instructions summarize the policies regarding bed-hold payments made during a resident's absence from a Medicaid nursing facility (NF) or Medicare skilled nursing facility (SNF).

A. Medicaid.

1. Law and Regulations. - Under Medicaid payment regulations in 42 CFR 447.40, Federal financial participation is available if a State plan includes provision for bed-hold payments during a recipient's temporary absence from an impatient facility. (To qualify under this provision, an absence for any purpose other than required hospitalization must be provided for in the patient's plan of care.)

To satisfy Medicaid NF requirements for participation in §1919(c)(2)(D)(i)-(ii) of the Act and in 42 CFR 483.12(b)(1)-(2), an NF must tell residents departing for hospitalization or therapeutic leave about the State's bed-hold payment policy. (This information must be in writing and must specify the number of days the State Medicaid program covers, if any, and the NF's policies regarding bed-hold periods.) If a Medicaid eligible resident's absence from the NF exceeds the bed-hold period provided for in the State plan, §1919(c)(2)(D)(iii) of the Act and 42 CFR 483.12(b)(3) guarantee the resident readmission to the facility immediately upon the first availability of a bed in a semiprivate room in the facility if, at the time of readmission, the resident requires the services provided by the facility.

The Medicaid NF requirements for participation in §1919(c)(5)(A)(iii) of the Act and in 42 CFR 483.12(d)(3) prohibit an NF from accepting any gift, money, donation, or other consideration as a precondition for a Medicaid eligible individual's admission, expedited admission, or continued stay in the facility.

The Medicaid NF requirements for participation in §1919 (c) (1) (B) (iii) - (iv) of the Act and in 42 CFR 483.10(b)(5)-(6) require an NF to inform each resident, upon admission and periodically thereafter, of services for which the resident can be charged, as well as the amount of the charge.

2. Interpretation.--The Medicaid program does not make payments to reserve a bed before a prospective resident's initial admission to a facility, since 42 CFR 447.40 provides authority for Medicaid bed-hold payments only after an individual has been admitted to the facility. Further, under §1919(c)(5)(A)(iii) of the Act and 42 CFR 483.12(d)(3), an NF may not accept preadmission bed-hold payments from a Medicaid eligible prospective resident or from any other source on that individual's behalf.

When a Medicaid eligible individual who has been admitted to the facility takes a temporary leave of absence from the facility, Medicaid can make bed-hold payments under 42 CFR 447.40. Bed-holds for days of absence in excess of the State's bed-hold limit are considered noncovered services for which the resident may elect to pay. (Under §1919(c)(1)(B)(iii) of the Act and 42 CFR 483.10(b)(5)-(6), the facility must inform residents in advance of the period whether Medicaid payment will be made for the holding of a bed, their option to make bed-hold payments if hospitalized or on a therapeutic leave beyond the State's bed-hold period, and of the amount of the facility's charge.) Thus, a Medicaid eligible resident whose absence from the facility exceeds the State's bed-hold limit can elect either to:

- Ensure the timely availability of a specific bed upon return by making bed-hold payment for any days of absence in excess of the State's payment limit; or

- Return upon the first availability of a semiprivate bed in the facility in accordance with §1919(c)(2)(D) of the Act and 42 CFR 483.12(b)(3). (The first available bed refers to the first unoccupied bed that is not being held because a resident (regardless of source of payment) has elected to make a payment to hold that bed.)

An NF may not impose a minimum bed-hold charge (e.g., a 3-day minimum charge on all bed reservations) because such minimum charges may result in duplication of Medicaid payment for covered services.

B. Medicare.

1. Law and Regulations. - The Medicare SNF requirements for participation (§1819 of the Act) contain no provisions corresponding to those of the Medicaid Statute in §1919 (c) (2) (D) and (c) (5) (A) (iii) of the Act. Unlike the Medicaid regulations in 42 CFR 447.40, the Medicare regulations do not include any provisions authorizing the program to make bed-hold payments.

The Medicare SNF requirements for participation in §1819(c)(1)(B)(iii) of the Act and in 42 CFR 483. 10 (b) (5) - (6) require an SNF to inform each resident, upon admission and periodically thereafter, of services for which the resident can be charged, as well as the amount of the charge.

Under the Medicare provider agreement requirements in §1866(a) (2) (B) of the Act and in 42 CFR 489. 32 (a) (2), an SNF may charge a resident for services in excess of (or more expensive than) covered services only when the services are furnished at the resident's request.

The Medicare provider agreement regulations in 42 CFR 489.22 (d) (1) prohibit Medicare providers (including SNFs) from charging for an agreement to admit or readmit an individual on some specified future date for covered impatient services.

2. Interpretation. - Like Medicaid, Medicare does not make bed-hold payments prior to a prospective resident's initial admission to a facility. Further, under the terms of its Medicare provider agreement, an SNF may not accept preadmission bed-hold payments from or on behalf of a person in return for admitting that person on some specified future date for covered impatient services.

Unlike Medicaid, Medicare has no legal authority to make bed-hold payments even after a person's admission to a facility, and the Medicare SNF requirements for participation do not guarantee a return to the first available semiprivate bed in the facility.

When temporarily leaving an SNF, a resident can choose to make bed-hold payments to the SNF, as long as the SNF's acceptance of such payments does not represent a prohibited provider practice under 42 CFR 489.22 (d) (1) . This means that the payment to the SNF is solely for the purpose of reserving the bed during the recipient's absence and does not represent a payment for the act of readmission on some specified future date for covered impatient services. (Under §1819 (c) (1) (B) (iii) of the Act and 42 CFR 483. 10 (b) (5) - (6) , the facility must inform residents in advance of their option to make such payments, as well as the amount of the facility's charge.)

Please call me or your Medicaid State Representative, at (206) 615-2339, if you have any questions concerning this letter.

David M. Haffie, Acting
Associate Regional Administrator
Division of Medicaid