

**§482.58 (a) Eligibility. A hospital must meet the following eligibility requirements:**

- (1) The facility has fewer than 100 hospital beds, excluding beds for newborns and beds in intensive care type inpatient units (for eligibility of hospitals with distinct parts electing the optional reimbursement method, see §413.24(d)(5) of this chapter).**
- (2) The hospital is located in a rural area. This includes all areas not delineated as “urbanized” areas by the Census Bureau, based on the most recent census.**
- (3) The hospital does not have in effect a 24-hour nursing waiver granted under §488.54(c) of this chapter.**
- (4) The hospital has not had a swing-bed approval terminated within the two years previous to application.**

**Interpretive Guidelines §482.58(a)**

Hospitals seeking swing-bed approval are screened prior to survey for their eligibility for swing-beds. However, the CMS RO makes the determination whether the hospital has satisfied the eligibility criteria, regardless of whether the SA or AO, as applicable, recommends approval of swing-bed status (this responsibility may not be delegated to the SA).

The eligibility criteria at 42 CFR 482.58(a) requires:

- The hospital has a Medicare provider agreement;
- An initial applicant hospital may seek swing-bed approval. If the applicant hospital meets all Federal requirements for participation, including those for swing-bed approval, the applicant hospital’s approval

for swing-bed services will be effective with the effective date of the hospital's Medicare participation agreement;

- The hospital has fewer than 100 maintained hospital beds, including any beds in IPPS-excluded units, but excluding beds for newborns and beds in intensive care type inpatient units;
  - The bed-count will be evaluated by surveyors during the survey;
  - Even though beds within a hospital's IPPS-excluded psychiatric or rehabilitation unit may not be used for the provision of swing bed services, the beds maintained within those units are included with the number of maintained beds within the hospital (that is because the §482.58(a)(1) does not exclude those beds from the count);
  - The bed-count is not based on the number of licensed or certified beds, but rather the bed-count is based on maintained beds;
  - Maintained beds are those patient beds within the Medicare certified hospital that are present for use in providing inpatient services, observation services, and/or swing-bed services.
  - Maintained beds would include:
    - Patient beds that are that located within nursing units of the hospital;
    - Established bed locations in patient rooms where the bed is temporarily out of service or temporarily absent from the location it routinely occupies; and
    - Those beds that are located within nursing units that are temporarily closed but are still included on the hospital's license and which can be brought into service when the hospital chooses.
  - Maintained beds would not include:
    - Examination or procedure tables or stretchers located in procedure rooms that are exclusively used for conducting examinations or procedures; and
    - Stretchers maintained in nursing units that are solely used for patient transport;

Note: Maintained beds that are located within intensive care type units and those beds that are maintained solely for the use of newborns would not be included in the bed count.

- If a Medicare certified hospital has multiple inpatient locations such as remote locations or satellites, all maintained beds at each location must be combined into a single bed-count. The total count of maintained beds for the Medicare certified hospital must be less than 100.
- The hospital is located in a rural area. This includes all areas not delineated as “urbanized” areas by the Census Bureau, based on the most recent census;
- The CMS RO Division of Survey and Certification (DSC) is responsible for conducting the evaluation as to whether the hospital is located outside of an urbanized area;
- The hospital must be located outside an urbanized area but may be located in an urban cluster (the terms “urbanized area” and “urban cluster” are two distinct classifications of population size used by the U.S. Census Bureau. An urban cluster is not an “urbanized area”);
- The RO will utilize the U.S. Census Bureau’s most current edition of American Factfinder to determine if the hospital is located outside of an area designated as urbanized. See SOM §2037E for additional instructions;
- In a situation where a hospital has multiple inpatient locations, such as a multi-campus hospital (a hospital with remote locations), or a hospital with satellites, each inpatient location must be individually evaluated to determine if it is located outside an urbanized area. When any inpatient location of the Medicare certified hospital is located within an urbanized area the hospital does not qualify for swing-bed approval.
- A hospital’s swing bed approval must be terminated if the U.S. Census Bureau delineates the hospital, or any inpatient location of the hospital, as being located within an urbanized area.
- The hospital does not have in effect a 24-hour nursing waiver granted under 42 CFR 488.54(c);
  - The RO must review the hospital’s ASPEN file to determine if the hospital has in effect a 24-hour nursing waiver. A hospital with this waiver cannot have swing-bed approval;

- A hospital that currently has swing-bed approval that seeks and is granted a 24-hour nursing waiver under 42 CFR 488.54(c) must have its swing-bed approval terminated;
- The hospital has not had a swing-bed approval terminated within the two years previous to application;
- When a hospital is seeking initial swing-bed approval, the RO will review the hospital's ASPEN file to determine if the hospital previously had swing-bed approval that was terminated within the two years previous to the application; and
- A request for swing-bed approval will be denied if the hospital has had swing-bed approval terminated within the previous two years. It does not matter whether the termination was voluntary or involuntary.

### **Survey Procedures §482.58(a)**

In conducting the survey, verify that the hospital has fewer than 100 hospital beds, excluding beds for newborns and beds in intensive care units. A hospital licensed for more than 100 beds may be eligible for swing-bed approval if it utilizes and staffs for fewer than 100 beds. Surveyors are to count the beds in each nursing unit. Do not count beds in recovery rooms, intensive care units, operating rooms, newborn nurseries, or stretchers in emergency departments. However, do count the beds within IPPS-excluded Rehabilitation and Psychiatric Units.