

§ 1367.09. Return to skilled nursing

(a) An enrollee with coverage for Medicare benefits who is discharged from an acute care hospital shall be allowed to return to a skilled nursing facility in which the enrollee resided prior to hospitalization, or the skilled nursing unit of a continuing care retirement community or multilevel facility in which the enrollee is a resident for continuing treatment related to the acute care hospital stay, if all of the following conditions are met:

(1) The enrollee is a resident of a continuing care retirement community, as defined in paragraph (10) of subdivision (a) of Section 1771, or is a resident of a multilevel facility, as defined in paragraph (9) of subdivision (d) of Section 15432 of the Government Code, or has resided for at least 60 days in a skilled nursing facility, as defined in Section 1250, that serves the needs of special populations, including religious and cultural groups.

(2) The primary care physician, and the treating physician if appropriate, in consultation with the patient, determines that the medical care needs of the enrollee, including continuity of care, can be met in the skilled nursing facility, or the skilled nursing unit of the continuing care retirement community, or multilevel facility. If a determination not to return the patient to the facility is made, the physician shall document reasons in the patient's medical record and share that written explanation with the patient.

(3) The skilled nursing facility, continuing care retirement facility, or multilevel facility is within the service area and agrees to abide by the plan's standards and terms and conditions related to the following:

(A) Utilization review, quality assurance, peer review, and access to health care services.

(B) Management and administrative procedures, including data and financial reporting that may be required by the plan.

(C) Licensing and certification as required by Section 1367.

(D) Appropriate certification of the facility by the Health Care Financing Administration or other federal and state agencies.

(4)(A) The skilled nursing facility, multilevel facility, or continuing care retirement community agrees to accept reimbursement from the health care service plan for covered services at either of the following rates:

(i) The rate applicable to similar skilled nursing coverage for facilities participating in the plan.

(ii) Upon mutual agreement, at a rate negotiated in good faith by the health care service plan or designated agent on an individual, per enrollee, contractual basis.

(B) Reimbursement shall not necessarily be based on actual costs and may be comparable to similar skilled nursing facility reimbursement methods available for other plan contracted facilities available to the individual member.

(b) The health care service plan, or designated agent, shall be required to reimburse the skilled nursing facility, continuing care retirement facility, or multilevel facility at the rate agreed to in paragraph (4) of subdivision (a).

(c) No skilled nursing facility, multilevel facility, or continuing care retirement community shall collect, or attempt to collect, or maintain any action of law, against a subscriber or enrollee to collect reimbursement owed by the

health care service plan for health care services provided pursuant to this section, or for any amount in excess of the payment amount that the facility has agreed to accept in its agreement with the health care service plan.

(d) Reimbursement by the health care service plan or designated agent shall be for those services included in the Medicare risk contract between the health care service plan and enrollee.

(e) Nothing in this section requires a skilled nursing facility, continuing care retirement facility, or multilevel facility to accept as a skilled nursing unit patient anyone other than a resident of the facility.

(f) This section shall apply to a health care service plan contract that is issued, amended, or renewed on or after January 1, 1999.

HISTORY:

Added Stats 1998 ch 124 § 2 (AB 742).