MEDICAID THERAPEUTIC LEAVE

CAN RESIDENTS RECEIVING MEDICAID LEAVE THEIR NURSING HOME FOR OVERNIGHT VISITS?

Yes, in most states residents receiving Medicaid may leave their nursing home for overnight visits and the state Medicaid program will pay for the days the resident is outside of the nursing home. In states that permit such leave these visits are called "therapeutic leave." Therapeutic leave is considered a non-medical visit outside the facility most commonly used for overnight visits with family or friends.

Each state has different program rules regarding the length of therapeutic leave a beneficiary may take and retain their Medicaid benefits. The number of days that are available for therapeutic leave varies widely by state, with some states not paying for any therapeutic leave and other states paying for more than 30 days a year. The average length of time for therapeutic leave among state programs is about 18 days per year; with North Carolina paying for the most time at 60 days per year. In addition to variations in the numbers of days allowed, states also have different rules regarding leaving the facility for consecutive days. For instance, in Hawaii a Medicaid eligible resident is allowed a total of 12 days for therapeutic leave per year, but the leave cannot be longer than three consecutive days.

WHAT IS A BED-HOLD POLICY?

Federal Medicaid law requires each state Medicaid plan to address bed-hold policies for therapeutic leave and periods of hospitalization, but it does not require states to pay nursing facilities for holding beds while the resident is absent from the facility for either of these reasons. In general, a bed-hold policy sets the length of time that the state will pay the facility for holding a bed for a Medicaid-eligible resident until the resident returns from therapeutic leave or hospitalization.

Although Medicaid law does not require states to pay nursing facilities for holding a bed, it does protect Medicaid-eligible residents who leave the nursing facility for a longer period than their state pays for under its bed-hold policy. Specifically, federal law requires that nursing facilities allow Medicaid-eligible residents to return to the facility immediately to the first available bed in a semi-private room.

Rules for bed-holds, therapeutic leave and hospitalization vary in each state. Some examples are listed below:

- As of January 2010, Alaska does not pay nursing facilities for bed-holds for hospital transfers or therapeutic leave.
- As of March 2009, Colorado pays nursing facilities for up to 42 non-medical leave days (similar to therapeutic leave) per calendar year, but does not pay for medical leave (hospitalization).
- Some states require that an attending physician document in the resident's care plan that the planned leave is therapeutically beneficial and will not interfere with their care needs before the resident can leave.

HOW CAN I GET INFORMATION ABOUT A NURSING HOME'S BED-HOLD POLICY?

Federal Medicaid law requires nursing facilities to do the following:

- The facility must provide the resident and a family member or legal representative with written information regarding their bed-hold policy prior to transferring the resident to the hospital or allowing a resident to take therapeutic leave (this notice is usually included in the information at the time of admission).

- At the time of transfer or a resident leaving for a therapeutic visit, the nursing facility must provide written notice of their bed-hold policy to the resident and a family member or legal representative (note that facilities are required to issue this written notice at least twice, prior to a transfer and at the time of transfer).

- The written notice must include the details of the state's bed-hold policy and the nursing facility's bed-hold policy (most nursing facilities will allow a resident to pay for additional days to reserve a bed past the state designated bed-hold period).

Since each state has different Medicaid program rules a resident, resident's family, legal representative or advocate needs to determine – prior to taking leave – whether the state pays for therapeutic leave and whether there are other requirements (such as approval from the resident's attending physician). It is important to know the rules regarding therapeutic leave and bed-holds so residents can leave their nursing facility and spend time with their loved ones.

RESOURCES

- 42 CFR 483.12: http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=2c5e9dd293d6429bc409038987b97ec3&tpl=/ecfrbrowse/Title42/42cfr483_main_02.tpl

- 42 U.S.C. 1396r: http://www.ssa.gov/OP_Facility/ssact/title19/1919.htm

- Center for Medicare Advocacy, *Discharge Planning for Better Health Care Advocacy Tips for Assisting Medicare Patients in Nursing Facility Discharge*: http://www.medicareadvocacy.org/InfoByTopic/DischargePlanning/Discharge_DisTips.SNF.Adv.pdf

- Medicaid Bed Hold Policies by State, February 2011, National Long-Term Care Ombudsman Resource Center, http://www.ltcombudsman.org/sites/default/files/library/documents/State-BedHold-Chart-Feb-2011.pdf

- State Operations Manual: Appendix PP- Guidance to Surveyors for Long Term Care Facilities: http://www.cms.gov/manuals/iom/itemdetail.asp?itemid=CMS1201984

This document was supported, in part, by a grant from the Administration on Aging, Department of Health and Human Services. Grantees undertaking projects under government sponsorship are encouraged to express freely their findings and conclusions. Points of view or opinions do not, therefore, necessarily represent official Administration on Aging policy.