
HCFA Rulings

Department of Health
and Human Services

Health Care Financing
Administration

Ruling No. 83-3

Date: 1982

HCFAR 83-3-1

MEDICARE PROGRAM

Hospital Insurance Benefits (Part A)

Revised Criteria for Defining a Skilled Nursing Facility When Determining a Beneficiary's Spell of Illness Status

HCFAR 83-3

Purpose: This Ruling provides public notice of the revised criteria that HCFA has established for defining a skilled nursing facility (SNF) under section 1861(j)(1) of the Social Security Act (the Act) when determining a beneficiary's spell of illness status.

Citations: Section 1812 and 1861 of the Social Security Act (42 U.S.C. 1395d and 1395x); 42 CFR 401.108; 49 FR 10710, March 22, 1984.

Pertinent History: Under the Hospital Insurance Program (Medicare-Part A), payment for covered inpatient hospital and skilled nursing facility services is available for a limited number of days during each benefit period or spell of illness. Once a beneficiary has exhausted that allotted number of days (90 days for inpatient hospital care plus 60 lifetime reserve days and 100 days for SNF care), no further Part A program payment is available for those services until the beneficiary ends that spell of illness and begins a new one (Section 1812(a) of the Act, 42 U.S.C. 1395d(a)). A patient's spell of illness begins on the day he or she is furnished hospital or SNF services and ends when he or she has not been an inpatient of a hospital or SNF for 60 consecutive days (Section 1861(a) of the Act, 42 U.S.C. 1395x(a)).

The material following section 1861(j)(15) of the Act (42 U.S.C. 1395x(j)(15)) specifies that for purposes of determining when a spell of illness

HCFAR 83-3-2

ends under section 1861(a), an SNF is defined by section 1861(j)(1) of the Act (42 U.S.C. 1395x(j)(1)). This latter provision defines an SNF as a facility that:

"(1) Is primarily engaged in providing to inpatients (A) skilled nursing care and related services for patients who require medical or nursing care, or (B) rehabilitation services, for the rehabilitation of injured, disabled, or sick persons."

Thus, while a beneficiary is an inpatient of a nursing home which meets this definition, the beneficiary is considered an inpatient of an SNF under section 1861(a) of the Act and cannot terminate his or her spell of illness for purposes of receiving renewed benefits.

We developed criteria early in the program that clarified the section 1861(j)(1) definition of a skilled nursing facility. These criteria are included in section 3412 of the State Operations Manual and in a HCFA Ruling (HCFAR 83-2) published in the Federal Register on December 3, 1982 (47 FR 54551). For determinations made prior to October 17, 1983, these criteria defined those SNFs where a stay could either prolong a spell of illness or constitute a patient's being in his "home" for purposes of the DME and home health benefits.

As a result of the recent court order in *Kron v. Heckler*, Civil Action No. 80-1332 (E.D. La., October 17, 1983), we instructed all fiscal intermediaries to start using a new set of criteria for defining section 1861(j)(1) facilities for spell of illness purposes. The new criteria, effective as of October 17, 1983 (the date the *Kron* judgment was entered), retain the previous section 1861(j)(1) criteria elements, but also provide that a section 1861(j)(1) SNF, for purposes of

HCFAR 83-3-3

prolonging a Medicare spell of illness, cannot include a facility or part of a facility that is licensed by the State solely as an intermediate care facility (ICF). This Ruling utilizes the elements of the definition of spell of illness that were contained in our instruction to fiscal intermediaries and also contains further clarifying language. The Ruling is applicable to spell of illness determinations made on or after October 17, 1983 and applies only to use of the "spell of illness" concept in the context of hospital or skilled nursing facility services, coverage, and reimbursement under Medicare. HCFAR 83-2 (47 FR 54551, December 3, 1982) is modified to the extent necessary to conform to this Ruling.

Criteria for Defining a Skilled Nursing Facility Under Section 1861(j)(1) of the Social Security Act When Determining a Beneficiary's Spell of Illness Status Ruling:

An institution meets the section 1861(j)(1) definition of skilled nursing or rehabilitation facility for purposes of prolonging a spell of illness under sections 1812(a) and 1861(a)(2) of the Social Security Act only if all the following criteria are met.

- A. Nursing Services. – Nursing services are provided under the direction or supervision of one or more registered nurses or licensed practical or vocational nurses without regard to whether they are "waived." This condition will be considered met even if the nurse is also the administrator of the facility or is employed on a part-time basis.

- B. 24-Hour Nursing Services. – There are nursing personnel on duty 24 hours a day. The term "nursing personnel" includes registered nurses, licensed practical or vocational nurses without regard to whether they are "waived" or not, practical nurses, student nurses, nursing aides, and orderlies.
-

HCFAR 83-3-4

- C. Nurse-Bed Ratio. – The number of full-time equivalent nursing personnel to the number of beds is not less than an average ratio of 1 to 15 per shift.

Note.-Generally, there will be a close equivalency between the number of beds and average number of patients in an institution. When the circumstances indicate a significant discrepancy in these factors, the ratio of nurses to the average patient census should be used in determining section 1861(j)(1) status.

A facility which has three 8-hour shifts would have to have a minimum of the equivalent of three full-time nursing personnel during a 24-hour period for each 15 beds. It is not necessary that the 1 to 15 ratio be maintained for each shift, but the average of all shifts must be at least 1 to 15. Nursing personnel include all those persons listed in paragraph B above. In determining the ratio, nurses who are also administrators should be counted as nursing personnel.

- D. Other Services. – Bed and board are provided to inpatients in connection with the furnishing of nursing care, plus one or more medically related health services such as physicians' services, physical, occupational or speech therapy, diagnostic and laboratory services, and administration of medication. (Social, diversional, or recreational services provided by the institution would not be considered medically related health services.)
-

HCFAR 83-3-5

- E. Not Solely an Intermediate Care Facility. – The facility or part of a facility which is being classified is not –
1. Certified solely as an intermediate care facility, consistent with 42 CFR Part 442, Subpart E; or
 2. Licensed by the State solely at a level or levels at or below the intermediate care facility (or a comparable) level.

Effective Date: March 22, 1984.