§ 440.150 Intermediate care facility (ICF/MR) services.

(a) “ICF/MR services” means those items and services furnished in an intermediate care facility for the mentally retarded if the following conditions are met:

(1) The facility fully meets the requirements for a State license to provide services that are above the level of room and board;

(2) The primary purpose of the ICF/MR is to furnish health or rehabilitative services to persons with mental retardation or persons with related conditions;

(3) The ICF/MR meets the standards specified in subpart I of part 483 of this chapter.

(4) The recipient with mental retardation for whom payment is requested is receiving active treatment, as specified in §483.440 of this chapter.

(5) The ICF/MR has been certified to meet the requirements of subpart C of part 442 of this chapter, as evidenced by a valid agreement between the Medicaid agency and the facility for furnishing ICF/MR services and making payments for these services under the plan.

(b) ICF/MR services may be furnished in a distinct part of a facility other than an ICF/MR if the distinct part:

(1) Meets all requirements for an ICF/MR, as specified in subpart I of part 483 of this chapter;

(2) Is clearly an identifiable living unit, such as an entire ward, wing, floor or building;

(3) Consists of all beds and related services in the unit;

(4) Houses all recipients for whom payment is being made for ICF/MR services; and

(5) Is approved in writing by the survey agency.

[59 FR 56234, Nov. 10, 1994, as amended at 71 FR 39229, July 12, 2006]

§ 440.155 Nursing facility services, other than in institutions for mental diseases.

(a) “Nursing facility services, other than in an institution for mental diseases” means services provided in a facility that—

(1) Fully meets the requirements for a State license to provide, on a regular basis, health-related services to individuals who do not require hospital care, but whose mental or physical condition requires services that—

(i) Are above the level of room and board; and

(ii) Can be made available only through institutional facilities;

(2) Has been certified to meet the requirements of subpart C of part 442 of this chapter as evidenced by a valid agreement between the Medicaid agency and the facility for providing nursing facility services and making payments for services under the plan; and

(b) “Nursing facility services” include services—

(1) Considered appropriate by the State and provided by a religious nonmedical institution as defined in §440.170(b); or

(2) Provided by a facility located on an Indian reservation that—

(i) Furnishes, on a regular basis, health-related services; and

(ii) Is certified by the Secretary to meet the standards in subpart E of part 442 of this chapter.

(c) “Nursing facility services” may include services provided in a distinct part (as defined in §483.5(b) of this chapter) of a facility other than a nursing facility if the distinct part (as defined in §483.5(b) of this chapter)—

(1) Meets all requirements for a nursing facility;

(2) Is an identifiable unit, such as an entire ward or contiguous ward, a wing, floor, or building;

(3) Consists of all beds and related facilities in the unit;

(4) Houses all recipients for whom payment is being made for nursing facility services, except as provided in paragraph (d) of this section;

(5) Is clearly identified; and

(6) Is approved in writing by the survey agency.

(d) If a State includes as nursing facility services those services provided...
by a distinct part of a facility other than a nursing facility, it may not re-
quire transfer of a recipient within or between facilities if, in the opinion of
the attending physician, it might be harmful to the physical or mental
health of the recipient.

(e) Nursing facility services may in-
clude services provided in a swing-bed hospital that has an approval to fur-
nish nursing facility services.

§ 440.160 Inpatient psychiatric serv-
ices for individuals under age 21.

'Inpatient psychiatric services for
individuals under age 21' means serv-
ices that—

(a) Are provided under the direc-
tion of a physician;

(b) Are provided by—

1. A psychiatric hospital that under-
goes a State survey to determine
whether the hospital meets the re-
quirements for participation in Medi-
care as a psychiatric hospital as speci-
fied in §482.60 of this chapter, or is ac-
credited by a national organization
whose psychiatric hospital accrediting
program has been approved by CMS; or

2. A hospital with an inpatient psy-
chiatric program that undergoes a
State survey to determine whether the
hospital meets the requirements for
participation in Medicare as a hospital,
as specified in part 482 of this chapter,
or is accredited by a national accred-
it ing organization whose hospital ac-
crediting program has been approved
by CMS.

3. A psychiatric facility which is ac-
credited by the Joint Commission on
Accreditation of Healthcare Organiza-
tions, the Council on Accreditation of
Services for Families and Children, the
Commission on Accreditation of Reha-
bilitation Facilities, or by any other
accrediting organization, with com-
parable standards, that is recognized
by the State.

4. Meet the requirements in §441.151
of this subchapter.

[63 FR 64108, Nov. 19, 1998, as amended at 75
FR 50418, Aug. 16, 2010]

§ 440.165 Nurse-midwife service.

(a) 'Nurse-midwife services' means
services that—

(1) Are furnished by a nurse-midwife
within the scope of practice authorized
by State law or regulation and, in the
case of inpatient or outpatient hospital
services or clinic services, are fur-
nished by or under the direction of a
nurse-midwife to the extent permitted
by the facility; and

(2) Unless required by State law or
regulations or a facility, are reim-
bursted without regard to whether the
nurse-midwife is under the supervision
of, or associated with, a physician or
other health care provider. (See §441.21
of this chapter for provisions on inde-
pendent provider agreements for nurse-
midwives.)

(b) 'Nurse-midwife' means a reg-
istered professional nurse who meets
the following requirements:

1. Is currently licensed to practice in
the State as a registered professional
nurse.

2. Is legally authorized under State
law or regulations to practice as a
nurse-midwife.

3. Except as provided in paragraph
(b)(4) of this section, has completed a
program of study and clinical experi-
ence for nurse-midwives, as specified
by the State.

4. If the State does not specify a pro-
gram of study and clinical experience
for nurse-midwives, as specified
by the State.

5. If the State does not specify a pro-
gram of study and clinical experience
that nurse-midwives must complete to
practice in that State, meets one of the
following conditions:

(i) Is currently certified as a nurse-
midwife by the American College of
Nurse-Midwives (ACNM or by the
ACNM Certification Council, Inc.
(ACC).

(ii) Has satisfactorily completed a
formal education program (of at least
one academic year) that, upon comple-
tion qualifies the nurse to take the cer-
tification examination offered by the
American College of Nurse-Midwives
(ACNM) or by the ACNM Certification
Council, Inc. (ACC).

(iii) Has successfully completed a for-
mal educational program for preparing
registered nurses to furnish gyneco-
logical and obstetrical care to women
during pregnancy, delivery, and the
postpartum period, and care to normal
newborns, and was practicing as a