provider that (1) demonstrates to
CMS’s satisfaction that a significant
portion of its patients are low-income,
and (2) requests that payment for its
services be determined accordingly.

Participating refers to a hospital or
other facility that meets the condi-
tions of participation and has in effect
a Medicare provider agreement.

Qualified hospital means a facility that—
(a) Is primarily engaged in providing,
by or under the supervision of doctors
of medicine or osteopathy, inpatient
services for the diagnosis, treatment,
and care or rehabilitation of persons
who are sick, injured, or disabled;
(b) Is not primarily engaged in pro-
viding skilled nursing care and related
services for inpatients who require
medical or nursing care;
(c) Provides 24-hour nursing service
in accordance with Sec. 1861(e)(5) of the
Act;
(d) If it is a U.S. hospital, is licensed,
or approved as meeting the standards
for licensing, by the State or local li-
censing agency; and
(e) If it is a foreign hospital, is li-
censed, or approved as meeting the appro-
priate foreign licensing agency, and for
purposes of furnishing nonemergency
services to U.S. residents, is accredited
by the Joint Commission on Accredita-
tion of Healthcare Organizations
(JCAHO), or by a foreign program
under standards that CMS finds to be
equivalent to those of JCAHO.

§ 409.5 General description of benefits.
Hospital insurance (Part A of Medi-
care) helps pay for inpatient hospital
or inpatient CAH services and
posthospital SNF care. It also pays for
home health services and hospice care.
There are limitations on the number
of days of care that Medicare can pay for
and there are deductible and coinsur-
ance amounts for which the beneficiary
is responsible. For each type of service,
certain conditions must be met as spec-
ified in the pertinent sections of this
subpart and in part 418 of this chapter
regarding hospice care. Conditions for
payment of emergency inpatient serv-
ices furnished by a nonparticipating
U.S. hospital and for services furnished
in a foreign country are set forth in
subparts G and H of part 424 of this
chapter.

[71 FR 48135, Aug. 18, 2006]

Subpart B—Inpatient Hospital
Services and Inpatient Critical
Access Hospital Services

§ 409.10 Included services.
(a) Subject to the conditions, limita-
tions, and exceptions set forth in this
subpart, the term “inpatient hospital
or inpatient CAH services” means the
following services furnished to an inpa-
tient of a participating hospital or of a
participating CAH or, in the case of
emergency services or services in for-
ign hospitals, to an inpatient of a
qualified hospital:
(1) Bed and board.
(2) Nursing services and other related
services.
(3) Use of hospital or CAH facilities.
(4) Medical social services.
(5) Drugs, biologicals, supplies, appli-
cances, and equipment.
(6) Certain other diagnostic or ther-
apeutic services.
(7) Medical or surgical services pro-
vided by certain interns or residents-
in-training.
(8) Transportation services, including
transport by ambulance.
(b) Inpatient hospital services does not
include the following types of services:
(1) Posthospital SNF care, as de-
scribed in § 409.20, furnished by a hos-
pital or a critical access hospital that
has a swing-bed approval.
(2) Nursing facility services, de-
scribed in § 440.155 of this chapter,
that may be furnished as a Medicaid service
under title XIX of the Act in a swing-
bed hospital that has an approval to
furnish nursing facility services.
(3) Physician services that meet the
requirements of § 415.102(a) of this chap-
ter for payment on a fee schedule basis.
(4) Physician assistant services, as
defined in section 1861(s)(2)(K)(i) of the
Act.
(5) Nurse practitioner and clinical
nurse specialist services, as defined in
section 1861(s)(2)(K)(ii) of the Act.
§ 409.11 Bed and board.
(a) Semiprivate and ward accommodations. Except for applicable deductible and coinsurance amounts, Medicare Part A pays in full for bed and board and semiprivate (2 to 4 beds), or ward (5 or more beds) accommodations.
(b) Private accommodations—(1) Conditions for payment in full. Except for applicable deductible and coinsurance amounts, Medicare Part A pays in full for a private room if—
   (i) The patient’s condition requires him or her to be isolated;
   (ii) The hospital or CAH has no semiprivate or ward accommodations; or
   (iii) The hospital’s or CAH’s semiprivate and ward accommodations are fully occupied by other patients, were so occupied at the time the patient was admitted to the hospital or CAH, respectively, for treatment of a condition that required immediate inpatient hospital or inpatient CAH care, and have been so occupied during the interval.
(2) Period of payment. In the situations specified in paragraph (b)(1) (i) and (iii) of this section, Medicare pays for a private room until the patient’s condition no longer requires isolation or until semiprivate or ward accommodations are available.
(3) Conditions for patient’s liability. The hospital or CAH may charge the patient the difference between its customary charge for the private room and its most prevalent charge for a semiprivate room if—
   (i) None of the conditions of paragraph (b)(1) of this section is met; and
   (ii) The private room was requested by the patient or a member of the family, who, at the time of the request, was informed what the hospital’s or CAH’s charge would be.

§ 409.12 Nursing and related services, medical social services; use of hospital or CAH facilities.
(a) Except as provided in paragraph (b) of this section, Medicare pays for nursing and related services, use of hospital or CAH facilities, and medical social services as inpatient hospital or inpatient CAH services only if those services are ordinarily furnished by the hospital or CAH, respectively, for the care and treatment of inpatients.
(b) Exception. Medicare does not pay for the services of a private duty nurse or attendant. An individual is not considered to be a private duty nurse or attendant if he or she is a hospital or CAH employee at the time the services are furnished.

§ 409.13 Drugs and biologicals.
(a) Except as specified in paragraph (b) of this section, Medicare pays for drugs and biologicals as inpatient hospital or inpatient CAH services only if—
   (1) They represent a cost to the hospital or CAH;
   (2) They are ordinarily furnished by the hospital or CAH for the care and treatment of inpatients; and
   (3) They are furnished to an inpatient for use in the hospital or CAH.
(b) Exception. Medicare pays for a limited supply of drugs for use outside the hospital or CAH if it is medically necessary to facilitate the beneficiary’s departure from the hospital and required until he or she can obtain a continuing supply.

§ 409.14 Supplies, appliances, and equipment.
(a) Except as specified in paragraph (b) of this section, Medicare pays for supplies, appliances, and equipment as inpatient hospital or inpatient CAH services only if—
   (1) They are ordinarily furnished by the hospital or CAH to inpatients; and
   (2) They are furnished to inpatients for use in the hospital or CAH.