(2) Subsequent recertifications are required at least every 30 days after the first recertification.

(e) Signature. Certification and recertification statements may be signed by:

(1) The physician responsible for the case or, with his or her authorization, by a physician on the SNF staff or a physician who is available in case of an emergency and has knowledge of the case; or

(2) A physician extender (that is, a nurse practitioner, a clinical nurse specialist, or a physician assistant as those terms are defined in section 1861(aa)(5) of the Act) who does not have a direct or indirect employment relationship with the facility but who is working in collaboration with a physician. For purposes of this section—

(i) Collaboration. (A) Collaboration means a process whereby a physician extender works with a doctor of medicine or osteopathy to deliver health care services.

(B) The services are delivered within the scope of the physician extender’s professional expertise, with medical direction and appropriate supervision as provided for in guidelines jointly developed by the physician extender and the physician or other mechanisms defined by Federal regulations and the law of the State in which the services are performed.

(ii) Types of employment relationships. (A) Direct employment relationship. A direct employment relationship with the facility is one in which the physician extender meets the common law definition of the facility’s “employee,” as specified in §§404.1005, 404.1007, and 404.1009 of title 20 of the regulations. When a physician extender meets this definition with respect to an entity other than the facility itself, and that entity has an agreement with the facility for the provision of nursing services under §409.21 of this subchapter, the facility is considered to have an indirect employment relationship with the physician extender.

(B) Indirect employment relationship. (1) When a physician extender meets the definition of a direct employment relationship in paragraph (e)(2)(ii)(A) of this section with respect to an entity other than the facility itself, and that entity has an agreement with the facility for the provision of nursing services under §409.21 of this subchapter, the facility is considered to have an indirect employment relationship with the physician extender.

(2) An indirect employment relationship does not exist if the agreement between the entity and the facility involves only the performance of delegated physician tasks under §483.40(e) of this chapter.

(f) Recertification requirement fulfilled by utilization review. A SNF may substitute utilization review of extended stay cases for the second and subsequent recertifications, if it includes this procedure in its utilization review plan.

(g) Description of procedures. The SNF must have available on file a written description that specifies the certification and recertification time schedule and indicates whether utilization review is used as an alternative to the second and subsequent recertifications.

§ 424.22 Requirements for home health services.

Medicare Part A or Part B pays for home health services only if a physician certifies and recertifies the content specified in paragraphs (a)(1) and (b)(2) of this section, as appropriate.

(a) Certification—(1) Content of certification. As a condition for payment of home health services under Medicare Part A or Medicare Part B, a physician must certify as follows:

(i) The individual needs or needed intermittent skilled nursing care, or physical or speech therapy, or (for the period from July through November 30, 1981) occupational therapy. If a patient’s underlying condition or complication requires a registered nurse to ensure that essential non-skilled care is achieving its purpose, and necessitates a registered nurse be involved in the development, management, and evaluation of a patient’s care plan, the physician will include a brief narrative describing the clinical justification of

VerDate Sep<11>2014 09:39 Dec 15, 2014 Jkt 232188 PO 00000 Frm 00702 Fmt 8010 Sfmt 8010 Q:\42\42V3.TXT 31
As a condition of Medicare Part A payment for home health services furnished before July 1981, the physician was also required to certify that the services were needed for a condition for which the individual had received inpatient hospital or SNF services.

(2) A physician, with privileges, who cared for the patient in an acute or post-acute care facility from which the patient was directly admitted to home health.

(3) A nurse practitioner or a clinical nurse specialist (as those terms are defined in section 1861(aa)(5) of the Act) who is working in accordance with State law and in collaboration with the certifying physician or in collaboration with an acute or post-acute care physician with privileges who cared for the patient in the acute or post-acute care facility from which the patient was directly admitted to home health.

(4) A certified nurse midwife (as defined in section 1861(gg) of the Act) as authorized by State law, under the supervision of the certifying physician or under the supervision of an acute or post-acute care physician with privileges who cared for the patient in the acute or post-acute care facility from which the patient was directly admitted to home health.

(5) A physician assistant (as defined in section 1861(aa)(5) of the Act) under the supervision of the certifying physician or under the supervision of an acute or post-acute care physician with privileges who cared for the patient in the acute or post-acute care facility from which the patient was directly admitted to home health.

(B) The documentation of the face-to-face patient encounter must be a separate and distinct section of, or an addendum to, the certification, and must be clearly titled and dated and the certification must be signed by the certifying physician.

(C) In cases where the face-to-face encounter is performed by a physician who cared for the patient in an acute or post-acute care facility or by a non-physician practitioner in collaboration with or under the supervision of such an acute or post-acute care physician and that nonphysician practitioner is not directly communicating to the certifying physician the clinical findings (that is, the patient’s homebound status and need for intermittent skilled nursing services or therapy services as defined in §409.42(a) and (c) of this chapter), the acute or post-acute care
physician must communicate the clinical findings of that face-to-face encounter to the certifying physician. In all other cases where a nonphysician practitioner performs the face-to-face encounter, the nonphysician practitioner must communicate the clinical findings of that face-to-face patient encounter to the certifying physician.

(D) If a face-to-face patient encounter occurred within 90 days of the start of care but is not related to the primary reason the patient requires home health services, or the patient has not seen the certifying physician or allowed nonphysician practitioner within the 90 days prior to the start of the home health episode, the certifying physician or nonphysician practitioner must have a face to face encounter with the patient within 30 days of the start of the home health care.

(E) The face-to-face patient encounter may occur through telehealth, in compliance with Section 1834(m) of the Act and subject to the list of payable Medicare telehealth services established by the applicable physician fee schedule regulation.

(F) The physician responsible for certifying the patient for home care must document the face-to-face encounter on the certification itself, or as an addendum to the certification (as described in paragraph (a)(1)(v) of this section), that the condition for which the patient was being treated in the face-to-face patient encounter is related to the primary reason the patient requires home health services, and why the clinical findings of such encounter support that the patient is homebound and in need of either intermittent skilled nursing services or therapy services as defined in §409.42(a) and (c) respectively. The documentation must be clearly titled and dated and the documentation must be signed by the certifying physician.

(2) Timing and signature. The certification of need for home health services to be provided by an HHA may not be certified or recertified, and a plan of care may not be established and reviewed, by any physician who has a financial relationship as defined in §411.354 of this chapter, with that HHA, unless the physician’s relationship meets one of the exceptions in section 1877 of the Act, which sets forth general exceptions to the referral prohibition related to both ownership/investment and compensation; exceptions to the referral prohibition related to ownership or investment interests; and exceptions to the referral prohibition related to compensation arrangements.
§ 424.24 Requirements for medical and other health services furnished by providers under Medicare Part B.

(a) Exempted services. Certification is not required for the following:

(1) Hospital services and supplies incident to physicians’ services furnished to outpatients. The exemption applies to drugs and biologicals that cannot be self-administered, but not to partial hospitalization services, as set forth in paragraph (e) of this section.

(2) Outpatient hospital diagnostic services, including necessary drugs and biologicals, ordinarily furnished or arranged for by a hospital for the purpose of diagnostic studies.

(b) General rule. Medicare Part B pays for medical and other health services furnished by providers (and not exempted under paragraph (a) of this section) only if a physician certifies the content specified in paragraph (c)(1), (c)(4) or (e)(1) of this section, as appropriate.

(c) Outpatient physical therapy and speech-language pathology services.—(1) Content of certification. (i) The services were furnished while the individual was under the care of a physician, nurse practitioner, clinical nurse specialist, or physician assistant.

(ii) The services were furnished under a plan of treatment that meets the requirements of § 410.61 of this chapter.

(2) Timing. The initial certification must be obtained as soon as possible after the plan is established.

(iii) Signature. The physician, nurse practitioner, clinical nurse specialist, or physician assistant who reviews the plan must recertify the plan by signing the medical record.

(d) [Reserved]

(e) Partial hospitalization services: Content of certification and plan of treatment requirements.—(1) Content of certification. (i) The individual would require inpatient psychiatric care if the partial hospitalization services were not provided.

(ii) The services were furnished while the individual was under the care of a physician.

(2) Plan of treatment requirements. (i) The plan is an individualized plan that is established and is periodically reviewed by a physician in consultation with appropriate staff participating in the program, and that sets forth—