

§ 409.30

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limitations or exclusions contained in that subpart or in § 409.20(b);

(b) Respiratory therapy services prescribed by a physician for the assessment, diagnostic evaluation, treatment, management, and monitoring of patients with deficiencies and abnormalities of cardiopulmonary function; and

(c) Transportation by ambulance that meets the general medical necessity requirements set forth in § 410.40(e)(1) of this chapter.

[63 FR 26307, May 12, 1998, as amended at 64 FR 41681, July 30, 1999; 84 FR 63187, Nov. 15, 2019]

Subpart D—Requirements for Coverage of Posthospital SNF Care

§ 409.30 Basic requirements.

Posthospital SNF care, including SNF-type care furnished in a hospital or CAH that has a swing-bed approval, is covered only if the beneficiary meets the requirements of this section and only for days when he or she needs and receives care of the level described in § 409.31. A beneficiary in an SNF is also considered to meet the level of care requirements of § 409.31 up to and including the assessment reference date for the initial Medicare assessment prescribed in § 413.343(b) of this chapter, when correctly assigned one of the case-mix classifiers that CMS designates for this purpose as representing the required level of care. For the purposes of this section, the assessment reference date is defined in accordance with § 483.315(d) of this chapter, and must be set for no later than the eighth day of posthospital SNF care.

(a) *Pre-admission requirements.* The beneficiary must—

(1) Have been hospitalized in a participating or qualified hospital or participating CAH, for medically necessary inpatient hospital or inpatient CAH care, for at least 3 consecutive calendar days, not counting the date of discharge; and

(2) Have been discharged from the hospital or CAH in or after the month he or she attained age 65, or in a month for which he or she was entitled to hospital insurance benefits on the basis of

disability or end-stage renal disease, in accordance with part 406 of this chapter.

(b) *Date of admission requirements.*¹ (1) Except as specified in paragraph (b)(2) of this section, the beneficiary must be in need of posthospital SNF care, be admitted to the facility, and receive the needed care within 30 calendar days after the date of discharge from a hospital or CAH.

(2) The following exceptions apply—

(i) A beneficiary for whom posthospital SNF care would not be medically appropriate within 30 days after discharge from the hospital or CAH, or a beneficiary enrolled in a Medicare + Choice (M + C) plan, may be admitted at the time it would be medically appropriate to begin an active course of treatment.

(ii) If, upon admission to the SNF, the beneficiary was enrolled in an M + C plan, as defined in § 422.4 of this chapter, offering the benefits described in § 422.101(c) of this chapter, the beneficiary will be considered to have met the requirements described in paragraphs (a) and (b) of this section, and also in § 409.31(b)(2), for the duration of the SNF stay.

[48 FR 12541, Mar. 25, 1983, as amended at 51 FR 41338, Nov. 14, 1986; 58 FR 30666, 30667, May 26, 1993; 62 FR 46025, Aug. 29, 1997; 63 FR 26307, May 12, 1998; 64 FR 41681, July 30, 1999; 68 FR 50584, Aug. 22, 2003; 72 FR 43436, Aug. 3, 2007; 82 FR 36633, Aug. 4, 2017; 84 FR 38832, Aug. 7, 2019]

§ 409.31 Level of care requirement.

(a) *Definition.* As used in this section, *skilled nursing and skilled rehabilitation services* means services that:

(1) Are ordered by a physician;

¹Before December 5, 1980, the law required that admission and receipt of care be within 14 days after discharge from the hospital or CAH and permitted admission up to 28 days after discharge if a SNF bed was not available in the geographic area in which the patient lived, or at the time it would be medically appropriate to begin an active course of treatment, if SNF care would not be medically appropriate within 14 days after discharge.