

(e) *Timing of certifications and recertifications: Outlier cases not subject to the prospective payment system (PPS).* (1) For outlier cases that are not subject to the PPS, certification is required no later than as of the 12th day of hospitalization. A hospital may, at its option, provide for the certification to be made earlier, or it may vary the timing of the certification within the 12-day period by diagnostic or clinical categories.

(2) The first recertification is required no later than as of the 18th day of hospitalization.

(3) Subsequent recertifications are required at intervals established by the UR committee (on a case-by-case basis if it so chooses), but no less frequently than every 30 days.

(f) *Timing of certification and recertification: Outlier cases subject to PPS.* For outlier cases subject to the PPS, certification is required as follows:

(1) For day outlier cases, certification is required no later than 1 day after the hospital reasonably assumes that the case meets the outlier criteria, established in accordance with § 412.80(a)(1)(i) of this chapter, or no later than 20 days into the hospital stay, whichever is earlier. The first and subsequent recertifications are required at intervals established by the UR committee (on a case-by-case basis if it so chooses) but not less frequently than every 30 days.

(2) For cost outlier cases, certification is required no later than the date on which the hospital requests cost outlier payment or 20 days into the hospital stay, whichever is earlier. If possible, certification must be made before the hospital incurs costs for which it will seek cost outlier payment. In cost outlier cases, the first and subsequent recertifications are required at intervals established by the UR committee (on a case-by-case basis if it so chooses).

(g) *Recertification requirement fulfilled by utilization review.* (1) At the hospital's option, extended stay review by its UR committee may take the place of the second and subsequent recertifications required for outlier cases not subject to PPS and for PPS day-outlier cases.

(2) A utilization review that is used to fulfill the recertification requirement is considered timely if performed no later than the seventh day after the day the recertification would have been required. The next recertification would need to be made no later than the 30th day following such review; if review by the UR committee took the place of this recertification, the review could be performed as late as the seventh day following the 30th day.

(h) *Description of procedures.* The hospital must have available on file a written description that specifies the time schedule for certifications and recertifications, and indicates whether utilization review of long-stay cases fulfills the requirement for second and subsequent recertifications of all outlier cases not subject to PPS and of PPS day outlier cases.

[78 FR 50969, Aug. 19, 2013, as amended at 79 FR 67033, Nov. 10, 2014]

§ 424.14 Requirements for inpatient services of inpatient psychiatric facilities.

(a) *Requirements for certification and recertification: General considerations.* Certification begins with the order for inpatient admission. The content requirements differ from those for other hospitals because the care furnished in inpatient psychiatric facilities is often purely custodial and thus not covered under Medicare. The purpose of the statements, therefore, is to help ensure that Medicare pays only for services of the type appropriate for Medicare coverage. Accordingly, Medicare Part A pays for inpatient services in an inpatient psychiatric facility only if a physician certifies and recertifies the need for services consistent with the requirements of this section, as appropriate.

(b) *Content of certification.* The physician must certify—

(1) That inpatient psychiatric services were required for treatment that could reasonably be expected to improve the patient's condition, or for diagnostic study.

(2) That the inpatient psychiatric services were provided in accordance with § 412.3 of this chapter.

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(c) *Content of recertification.* (1) Inpatient services furnished since the previous certification or recertification were, and continue to be, required—

(i) For treatment that could reasonably be expected to improve the patient's condition; or

(ii) For diagnostic study; and

(2) The hospital records show that the services furnished were—

(i) Intensive treatment services;

(ii) Admission and related services necessary for diagnostic study; or

(iii) Equivalent services.

(3) The patient continues to need, on a daily basis, active treatment furnished directly by or requiring the supervision of inpatient psychiatric facility personnel.

(d) *Timing of certification and recertification.* (1) Certification is required at the time of admission or as soon thereafter as is reasonable and practicable, and must be completed and documented in the medical record prior to discharge.

(2) The first recertification is required as of the 12th day of hospitalization. Subsequent recertifications are required at intervals established by the UR committee (on a case-by-case basis if it so chooses), but no less frequently than every 30 days.

(e) *Other requirements.* Inpatient psychiatric facilities must also meet the requirements set forth in § 424.13(c), (d), (g), and (h).

[53 FR 6634, Mar. 2, 1988, as amended at 71 FR 27087, May 9, 2006; 71 FR 37504, June 30, 2006; 78 FR 50970, Aug. 19, 2013]

§ 424.15 Requirements for inpatient CAH services.

(a) Medicare Part A pays for inpatient CAH services only if a physician certifies that the individual may reasonably be expected to be discharged or transferred to a hospital within 96 hours after admission to the CAH, and that the services are provided in accordance with § 412.3 of this chapter.

(b) Certification begins with the order for inpatient admission. All certification requirements must be completed, signed, and documented in the medical record no later than 1 day before the date on which the claim for

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payment for the inpatient CAH service is submitted.

[78 FR 50970, Aug. 19, 2013, as amended at 79 FR 50359, Aug. 22, 2014]

§ 424.16 Timing of certification for individual admitted to a hospital before entitlement to Medicare benefits.

(a) *Basic rule.* If an individual is admitted to a hospital before becoming entitled to Medicare benefits (for instance, before attaining age 65), the day of entitlement (instead of the day of admission) is the starting point for the time limits specified in subpart B of this part for certification and recertification.

(b) *Example.* (Hospital that is not a psychiatric hospital and is not subject to PPS). For a patient who is admitted on August 15 and becomes entitled on September 1—

(1) The certification is required no later than September 12;

(2) The first recertification is required no later than September 18; and

(3) Subsequent recertifications are required at least every 30 days after September 18.

[53 FR 6635, Mar. 2, 1988; 53 FR 12945, Apr. 20, 1988, as amended at 78 FR 50970, Aug. 19, 2013]

§ 424.20 Requirements for posthospital SNF care.

Medicare Part A pays for posthospital SNF care furnished by an SNF, or a hospital or CAH with a swing-bed approval, only if the certification and recertification for services are consistent with the content of paragraph (a) or (c) of this section, as appropriate.

(a) *Content of certification.*—(1) *General requirements.* Posthospital SNF care is or was required because—

(i) The individual needs or needed on a daily basis skilled nursing care (furnished directly by or requiring the supervision of skilled nursing personnel) or other skilled rehabilitation services that, as a practical matter, can only be provided in an SNF or a swing-bed hospital on an inpatient basis, and the SNF care is or was needed for a condition for which the individual received inpatient care in a participating hospital or a qualified hospital, as defined in § 409.3 of this chapter, or for a new

condition that arose while the individual was receiving care in the SNF or swing-bed hospital for a condition for which he or she received inpatient care in a participating or qualified hospital; or

(ii) The individual has been correctly assigned one of the case-mix classifiers that CMS designates as representing the required level of care, as provided in § 409.30 of this chapter.

(2) *Special requirement for certifications performed prior to July 1, 2002: A swing-bed hospital with more than 49 beds (but fewer than 100) that does not transfer a swing-bed patient to a SNF within 5 days of the availability date.* Transfer of the extended care patient to the SNF is not medically appropriate.

(b) *Timing of certification*—(1) *General rule.* The certification must be obtained at the time of admission or as soon thereafter as is reasonable and practicable.

(2) *Special rules for certain swing-bed hospitals.* For swing-bed hospitals with more than 49 beds that are approved after March 31, 1988, the extended care patient's physician has 5 days (excluding weekends and holidays) beginning on the availability date as defined in § 413.114(b), to certify that the transfer of the extended care patient is not medically appropriate.

(c) *Content of recertifications.* (1) The reasons for the continued need for posthospital SNF care:

(2) The estimated time the individual will need to remain in the SNF;

(3) Plans for home care, if any; and

(4) If appropriate, the fact that continued services are needed for a condition that arose after admission to the SNF and while the individual was still under treatment for the condition for which he or she had received inpatient hospital services.

(d) *Timing of recertifications.* (1) The first recertification is required no later than the 14th day of posthospital SNF care.

(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.