

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

FORM APPROVED
OMB NO. 0938-0193

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL**

1. TRANSMITTAL NUMBER:
TN 02-021

2. STATE
Ohio

FOR: CENTERS FOR MEDICAID AND MEDICAID SERVICES

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE
SOCIAL SECURITY ACT (MEDICAID) Title XIX

TO: REGIONAL ADMINISTRATOR
HEALTH CARE FINANCING ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE
September 1, 2002

5. TYPE OF PLAN MATERIAL (Check One):

- NEW STATE PLAN
- AMENDMENT TO BE CONSIDERED AS NEW PLAN
- AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION:
Section 1902 (a)(13)(A) of the Social Security Act

7. FEDERAL BUDGET IMPACT:
a. FFY 2002 \$ -0-
b. FFY 2003 \$ -0-

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

Attachment 4.19D rules: 5101:3-3-59 and 5101:3-3-92

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION
OR ATTACHMENT (If Applicable):

Attachment 4.19D rule: 5101:3-3-59 and 5101:3-3-92

10. SUBJECT OF AMENDMENT:

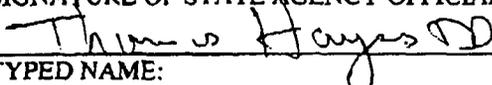
The rule contained in this amendment was reviewed in accordance with Section 119.032 of the Ohio Revised Code which requires the review of all state agency rules within a five-year period and determines whether a rule should be continued without amendment, be amended, or be rescinded taking into consideration the rule's purpose and scope.

11. GOVERNOR'S REVIEW (Check One):

- GOVERNOR'S OFFICE REPORTED NO COMMENT
- COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
- NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

x OTHER, AS SPECIFIED:

12. SIGNATURE OF STATE AGENCY OFFICIAL:



13. TYPED NAME:

Thomas J. Hayes

14. TITLE:

Director

15. DATE SUBMITTED:

September 4, 2002

16. RETURN TO:

Becky Jackson
Bureau of Health Plan Policy
Ohio Department of Job and Family Services
30 East Broad Street, 27th floor
Columbus, Ohio 43215-3414

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED:

SEP 10 2002

18. DATE APPROVED:

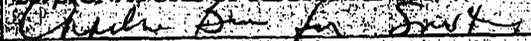
11-13-02

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL:

9-1-02

20. SIGNATURE OF REGIONAL OFFICIAL:



21. TYPED NAME:

Cheryl Ann for Smith

22. TITLE:

Deputy Director, CMSO

23. REMARKS:

RECEIVED

SEP 10 2002

DMCH - IL/IN/OH

ACTION: FINAL
FILED

DATE: 08/22/2002
01:51 PM

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Coverage of bed-hold days for medically necessary and other limited absences in nursing facilities (NFs).

(A) Definitions:

- (1) "Admission" ~~means~~ is the status of an individual who was not considered to be a resident of any Ohio medicaid-certified NF immediately preceding the current NF admission including the status of any individual who was formerly a NF resident but who exhausted their bed-hold days while in the community and/or hospital stay. Admissions are distinguished from returns of residents on bed-hold status.
- (2) "Bed-hold days," also referred to as "leave days," are the span of time that a bed is reserved for the resident, through medicaid vendor payment, while the resident is outside the facility for hospital stays, visitations with friends and relatives, or participation in therapeutic programs and has the intent to return to that facility. A resident on bed-hold days has not been discharged from the facility since the facility is reimbursed to hold the bed while the resident is on leave. A person on discharged status cannot simultaneously be on bed-hold status.
- (3) ~~"CFR" means Code of Federal Regulations, a codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government.~~
- (4)(3) "Discharge" ~~means that a resident is~~ the status of a resident who leaves a NF and does not intend to return to that facility. The discharge may be due, but not limited, to a transfer to another facility, the exhaustion of bed-hold days, the resident's decision to reside in a community-based setting, or death of the resident.
- (5)(4) "Home and community-based services" (HCBS) means services furnished ~~under 42 CFR section 440.180 and under the provisions of 42 CFR subpart G and specific Ohio programs set forth in rule 5111:3-1-06 of the Administrative Code which permit individuals to live in a home setting rather than a NF or hospital. These services are sometimes referred to as "waiver" services or as 1915(e) programs. A description of all of Ohio's waiver programs is listed in rule 5101:3-1-06 of the Administrative Code.~~ under the provisions of rule 5101:3-1-06 of the Administrative Code which enable individuals to live in a home setting rather than a NF, an intermediate care

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facility for the mentally retarded (ICF-MR), or hospital.

~~(6)~~(5) "Hospitalization" refers to a transfer of a resident to a medical institution as defined in ~~42 CFR Chapter IV section 435.1009~~ paragraph (A)(7) of this rule.

~~(7)~~(6) "Institutions for mental diseases" (IMDs) ~~has the same meaning as stated in rule 5101:3-3-061 of the Administrative Code and 42 CFR section 435.1009.~~ means a hospital, nursing facility, or other institution of more than sixteen beds that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care and related services. Whether an institution is an institution for mental diseases is determined by its overall character as that of a facility established and maintained primarily for the care and treatment of individuals with mental diseases, whether or not it is licensed as such. An intermediate care facility for the mentally retarded (ICFMR) is not an IMD.

(7) "Medical institution" means an institution that:

(a) Is organized to provide medical care, including nursing and convalescent care; and

(b) Has the necessary professional personnel, equipment, and facilities to manage the medical, nursing, and other health needs of patients on a continuing basis in accordance with accepted standards; and

(c) Is authorized under state law to provide medical care; and

(d) Is staffed by professional personnel who are responsible to the institution for professional medical and nursing services. The services must include adequate and continual medical care and supervision by a physician; registered nurse or licensed practical nurse supervision and services and nurses' aid services, sufficient to meet nursing care needs; and a physician's guidance on the professional aspects of operating the institution.

(8) "NF transfer" has the same meaning as stated in rule ~~5101:3-3-15~~5101:3-3-15.1 of the Administrative Code.

(9) "Occupied day" is a day during the stay of a resident approved for medicaid vendor payment for which a facility shall receive the full per resident per day payment directly from medicaid in accordance with Chapter 5101:3-3 of the Administrative Code.

(10) "Readmission" ~~means~~ means the status of a resident who is readmitted to the same

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NF following a stay in a hospital to which the resident was sent to receive care or returns after a therapeutic program or visit with friends or relatives.

- (11) "Skilled nursing facility (SNF) means a nursing home certified to participate in the medicare program.
- (B) To determine whether specific days during a resident's stay are payable through medicaid vendor payments as bed-hold days or occupied days, the following criteria shall be used:
- (1) The day of admission counts as one occupied day.
 - (2) The day of discharge is not counted as either a bed-hold or occupied day.
 - (3) When admission and discharge occur on the same day, the day is considered as a day of admission and counts as one occupied day, even if the day is less than eight hours.
 - (4) A part of a day in the facility if greater than eight hours counts as one occupied day for reimbursement purposes. A day begins at midnight and ends twenty-four hours later.
 - (a) An individual who leaves the facility to be hospitalized on Monday at seven a.m. and returns to the facility on Friday at two p.m. has accumulated four bed-hold days (~~Monday-thursday~~)(Monday-Thursday). Monday is counted as a bed-hold day, in this example, since the individual was in the facility less than eight hours.
 - (b) If the individual left the facility on Monday at nine a.m. and returned on Friday at two p.m., three bed-hold days have been accumulated (Tuesday-Thursday) since the individual was in the facility for more than eight hours on both Monday and Friday which are counted as occupied days (see appendix A of this rule).
- (C) For medicaid-eligible residents in certified NFs, except those described in paragraph (H) of this rule, ~~ODHS~~the Ohio department of job and family services (ODJFS) may pay the NF to reserve a bed only for as long as the resident intends to return to the facility but for not more than thirty days in any calendar year. Reimbursement for bed-hold days shall be paid at fifty per cent of the facility's per diem rate. This reimbursement shall be considered payment in full, and the NF may not seek supplemental payment from the resident. The NF shall report a resident's use of

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bed-hold days on the "Nursing Facility Payment and Adjustment Authorization" (~~ODHS 9400~~)(JFS 09400).

- (1) Hospitalization. ~~Reimbursement may be made to eligible NFs during periods of resident hospitalization for the purpose of reserving the resident's NF bed. Hospital leave days may be authorized only until:~~

Reimbursement may be made to eligible NFs during periods of resident hospitalization for the purpose of reserving the resident's NF bed. Hospital leave days may be authorized only until:

- (a) The day on which the hospitalized resident's anticipated level of care at time of discharge from the hospital changes to a level of care which the NF is not certified to provide; or
 - (b) The day the resident is discharged from the hospital, including discharge resulting in transfer to another hospital-based or free standing NF or SNF; or
 - (c) The day the resident decides to go to another NF upon discharge from the hospital and notifies the first NF; or
 - (d) The day the hospitalized resident dies.
- (2) Therapeutic leave visits. ~~Any plan for limited absences for participation in therapeutic programs must be approved in advance by the primary physician and documented in the medical record. These documents must be available for viewing by the county department of human services (CDHS) or the Ohio department of human services (ODHS). Provisions must be made for care and services that will be required during the absence of the resident.~~

Any plan for limited absences for participation in therapeutic programs must be approved in advance by the primary physician and documented in the medical record. These documents must be available for viewing by the county department of job and family services (CDJFS) or ODJFS. Provisions must be made for care and services that will be required during the absence of the resident.

- (3) Visits with friends or relatives. ~~Any plan for limited absences for visits with friends or relatives must be approved in advance by the primary physician and documented in the medical record. These documents must be available for viewing by the CDHS or ODHS. Provisions must be made for care and~~

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~~services that will be required during the absence of the resident. The number of days per visit is flexible within the maximum bed hold days allowing for differences in the resident's physical condition, travel time involved, and type of visit.~~

Any plan for limited absences for visits with friends or relatives must be approved in advance by the primary physician and documented in the medical record. These documents must be available for viewing by the CDJFS or ODJFS. Provisions must be made for care and services that will be required during the absence of the resident. The number of days per visit is flexible within the maximum bed-hold days allowing for differences in the resident's physical condition, travel time involved, and type of visit.

- (D) ~~Readmission after depletion of bed-hold days. A NF must establish and follow a written policy under which medicaid residents, who have expended their annual allotment of thirty bed hold days and, therefore, are no longer entitled to a reserved bed under the medicaid bed hold limit, must be readmitted to the first available medicaid certified bed in a semiprivate room. The first available bed refers to the first unoccupied bed that is not being held because a resident (regardless of source of payment) has elected to make a payment to hold that bed. This readmission requires that the resident is in need of NF services and is eligible for medicaid NF services.~~

A NF must establish and follow a written policy under which medicaid residents, who have expended their annual allotment of thirty bed-hold days and, therefore, are no longer entitled to a reserved bed under the medicaid bed-hold limit, must be readmitted to the first available medicaid certified bed in a semiprivate room. The first available bed refers to the first unoccupied bed that is not being held because a resident (regardless of source of payment) has elected to make a payment to hold that bed. This readmission requires that the resident is in need of NF services and is eligible for medicaid NF services.

- (1) The resident must be readmitted to the first available medicaid certified bed in a semiprivate room, even if the resident has an outstanding balance owed to the NF. The readmitted resident may be discharged if the NF can demonstrate that nonpayment of charges exists and hearing and notice requirements have been issued as set forth in section 3721.16 of the Revised Code.
- (2) Bed-hold days for absence in excess of the medicaid bed-hold limit are considered noncovered services for which the resident may elect to pay. A medicaid eligible resident whose absence from the facility exceeds the state's bed-hold limit can elect either to:

- (a) Ensure the timely availability of a specific bed upon return by making

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bed-hold payments for any days of absence in excess of the medicaid limit; or

- (b) Return upon the first availability of a semiprivate bed in the NF.
- (3) Medicaid-eligible residents' bed-hold day rights extend only to situations in which the resident leaves the NF for hospitalization or therapeutic leave or visits with friends or relatives and then returns to the same NF.
- (a) If a resident who has depleted medicaid-covered bed-hold days is admitted to a hospital and then transfers to a second NF because the second NF provides services the first facility does not provide, the first NF has no obligation to readmit the resident.
- (b) If a resident who has depleted medicaid bed-hold days is admitted to a hospital and then transfers to a hospital-based NF or SNF, the type of NF or SNF to which a resident transfers is not relevant to the requirements stated in paragraph (D) of this rule ~~and 42 CFR 483.12(b)(3)~~. Therefore, a resident's transfer to a hospital-based NF or SNF shall be considered equivalent to a transfer to any other NF or SNF and the first NF is not obligated to readmit the resident.
- (E) It is the NF's responsibility to provide written information and a written notice prior to a resident's hospitalization or therapeutic leave or visits with friends or relatives:
- (1) The NF must provide to a resident and a family member or legal representative, in advance of the resident's hospitalization or therapeutic leave or visits with friends or relatives, written information that specifies the duration of bed-hold status stated in this rule during which the resident is permitted to return to the NF. The NF must also provide written information to a resident and a family member or legal representative about the facility's bed-hold policies which must be consistent with paragraph (D) of this rule.
- (2) At the time the resident is to be hospitalized or is scheduled for temporary leave of absence, the NF must provide to a resident and a family member or legal representative a written notice which specifies the maximum duration of medicaid-covered bed-hold days described in this rule.
- (a) The NF must inform residents in advance of their hospitalization or other limited absence whether medicaid payment will be made for the holding of a bed and if so, for how many days; the residents' option to make bed-hold payments if hospitalized or on a therapeutic leave or on

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visits with friends or relatives beyond the medicaid bed-hold limit, and of the amount of the facility's charge.

- (b) In the case of an emergency hospitalization, the NF must provide written notice to the resident and a family member or legal representative within twenty-four hours of the hospitalization. This written notice requirement of an emergency hospitalization is met if the resident's copy of the notice is sent with other papers accompanying the resident to the hospital.
- (F) Medicaid payment for covered bed-hold days is considered reimbursement for reserving bed space for a resident who intends to return to the NF. The number of NF inpatient days as defined in rule 5101:3-3-01 of the Administrative Code for the calendar year shall not exceed one hundred per cent of available bed days.
- (G) ~~ODHS~~SODJFS shall pay NFs for bed-hold days under the provisions specified in this rule if the resident is eligible for medicaid services, has met patient liability and financial eligibility requirements stated in rule ~~5101:1-39-222~~5101:1-39-22.2 of the Administrative Code and the resident is not a participant of special medicaid programs or assigned special status as outlined in paragraph (H) of this rule. A NF is entitled to reimbursement for bed-hold days when the resident is:

- (1) ~~Dually medicare and medicaid eligible. For a resident who is both medicare part A and medicaid eligible, medicaid will pay for bed hold days up to the maximum number of days specified in this rule. Medicaid will, therefore, pay bed hold days during the acute care hospitalization of a medicaid eligible resident who had been receiving medicare part A SNF benefits in the NF immediately prior to and/or following a period of hospitalization.~~

For a resident who is both medicare part A and medicaid eligible, medicaid will pay for bed-hold days up to the maximum number of days specified in this rule. Medicaid will, therefore, pay bed-hold days during the acute care hospitalization of a medicaid eligible resident who had been receiving medicare part A SNF benefits in the NF immediately prior to and/or following a period of hospitalization; or

- (2) ~~Medicaid pending. For a resident who is pending approval of an application for medicaid and requires a bed hold day, medicaid will pay for bed hold days retroactive to the date the resident becomes medicaid eligible and approved for medicaid NF vendor payment through the date the resident returns from a leave or until the maximum bed hold days are exhausted.~~

For a resident who is pending approval of an application for medicaid and requires a bed-hold day, medicaid will pay for bed-hold days retroactive to

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the date the resident becomes medicaid eligible and approved for medicaid NF vendor payment through the date the resident returns from a leave or until the maximum bed-hold days are exhausted; or

- (3) ~~Medicaid eligible. For a resident who is medicaid eligible and approved for medicaid NF vendor payment, medicaid will pay bed hold days up to the maximum amount specified in this rule.~~

For a resident who is medicaid eligible and approved for medicaid NF vendor payment, medicaid will pay bed-hold days up to the maximum amount specified in this rule.

- (H) Bed-hold days are not available to medicaid eligible residents of NFs under the following conditions:

- (1) ~~Hospice. Individuals enrolled in a medicare or medicaid hospice program are not entitled to medicaid covered bed hold days. It is the hospice's responsibility to contract with and pay the NF. The provisions and criteria for the hospice program are stated in Chapter 5101:3-56 of the Administrative Code.~~

Individuals enrolled in a medicare or medicaid hospice program are not entitled to medicaid-covered bed-hold days. It is the hospice's responsibility to contract with and pay the NF. The provisions and criteria for the hospice program are stated in Chapter 5101:3-56 of the Administrative Code; or

- (2) ~~IMDs. A resident who is over age twenty one and under age sixty five and becomes a patient of an IMD loses medicaid eligibility and is not entitled to bed hold days. The NF can not receive bed hold day reimbursement during the period the individual is hospitalized in an IMD. The CDHS shall issue the appropriate notice of medicaid ineligibility as stated in rule 5101:6-2-05 of the Administrative Code.~~

A resident who is over age twenty-one and under age sixty-five and becomes a patient of an IMD loses medicaid eligibility and is not entitled to bed-hold days. The NF can not receive bed-hold day reimbursement during the period the individual is hospitalized in an IMD. The CDJFS shall issue the appropriate notice of medicaid ineligibility as stated in rule 5101:6-2-05 of the Administrative Code; or

- (3) ~~HCBS. Bed hold days do not apply to individuals who are enrolled in a HCBS waiver program but are using the NF to provide for short term respite care as a waiver service. The HCBS program does not permit an individual to~~

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~~concurrently be on active status as a HCBS enrollee and a NF resident approved for NF vendor payment. The eligibility criteria for the HCBS waiver programs are contained in Chapters 5101:3-31, 5101:3-39, 5101:3-40, and 5101:3-41 of the Administrative Code.~~

Bed-hold days do not apply to individuals who are enrolled in a HCBS waiver program but are using the NF to provide for short-term respite care as a waiver service. The HCBS program does not permit an individual to concurrently be on active status as a HCBS enrollee and a NF resident approved for NF vendor payment. The eligibility criteria for the HCBS waiver programs are contained in Chapters 5101:3-31, 5101:3-39, 5101:3-40, and 5101:3-41 of the Administrative Code; or

- (4) Program of all-inclusive care for the elderly (PACE) or other capitated managed care programs. ~~Bed hold days are not available to medicaid-eligible residents of NFs who are enrolled in capitated payment programs that subcontract with the NF and for whom the NF does not receive vendor payment directly from medicaid.~~

Bed-hold days are not available to medicaid-eligible residents of NFs who are enrolled in capitated payment programs that subcontract with the NF and for whom the NF does not receive vendor payment directly from medicaid; or

- (5) Restricted medicaid coverage. ~~Individuals who are medicaid eligible but are in a period of restricted medicaid coverage because of an improper transfer of resources are not eligible for bed hold days until the period of restricted coverage has been met. The criteria for the determination of restricted medicaid coverage is specified in rule 5101:1-39-077 of the Administrative Code.~~

Individuals who are medicaid eligible but are in a period of restricted medicaid coverage because of an improper transfer of resources are not eligible for bed-hold days until the period of restricted coverage has been met. The criteria for the determination of restricted medicaid coverage is specified in rule 5101:1-39-07.7 of the Administrative Code; or

- (6) Facility closures and resident relocations. ~~Bed hold days are available based on a resident's desire and ability to return to the facility. Bed hold days are not available to residents who have relocated due to the facility's anticipated closure, voluntary withdrawal from participation in the medicaid program or other termination of the facility's medicaid provider agreement. No span of bed hold days shall be approved that ends on a facility's date of closure or termination from medicaid.~~

Bed-hold days are available based on a resident's desire and ability to return

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