CHAPTER 8
ADDENDUM B

CRITERIA FOR SKILLED SERVICES AND THE NEED FOR SKILLED SERVICES

TITLE 42--PUBLIC HEALTH
CHAPTER IV--HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES

PART 409--HOSPITAL INSURANCE BENEFITS --Table of Contents

Subpart D--Requirements for Coverage of Post-hospital SNF Care

Sec. 409.32 Criteria for skilled services and the need for skilled services.

(a) To be considered a skilled service, the service must be so inherently complex that it can be safely and effectively performed only by, or under the supervision of, professional or technical personnel.

(b) A condition that does not ordinarily require skilled services may require them because of special medical complications. Under those circumstances, a service that is usually non-skilled (such as those listed in Sec. 409.33(d)) may be considered skilled because it must be performed or supervised by skilled nursing or rehabilitation personnel. For example, a plaster cast on a leg does not usually require skilled care. However, if the patient has a preexisting acute skin condition or needs traction, skilled personnel may be needed to adjust traction or watch for complications. In situations of this type, the complications, and the skilled services they require, must be documented by physicians' orders and nursing or therapy notes.

(c) The restoration potential of a patient is not the deciding factor in determining whether skilled services are needed. Even if full recovery or medical improvement is not possible, a patient may need skilled services to prevent deterioration or preserve current capabilities. For example, a terminal cancer patient may need some of the skilled services described in Sec. 409-33.

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Definition of covered SNF services.

The intent is for the TRICARE SNF benefit to mirror the Medicare SNF benefit (with the exception of the 100 day limit). Based on the requirements of the National Defense Authorization Act for Fiscal Year 2002 (Pub. L. 107-107), covered SNF services are defined in 32 CFR 199.4 (b)(3)(xiv) as follows:

Skilled Nursing Facility (SNF) services. Covered services in SNFs are the same as provided under Medicare under section 1861(h) and (i) of the Social Security Act (42 U.S.C. 1395x(h) and (i)) and 42 CFR Part 409, Subparts C and D, except that the Medicare limitation on the number of days of coverage under section 1812(a) and (b) of the Social Security Act (42 U.S.C. 1395d(a) and (b)) and 42 CFR 409.61(b) shall not be applicable under TRICARE. Skilled nursing facility care for each spell of illness shall continue to be provided for as long as necessary and appropriate. For a SNF admission to be covered under TRICARE, the beneficiary must have a qualifying hospital stay meaning an inpatient hospital stay of three consecutive days or more, not including the hospital leave day. The beneficiary must enter the SNF within 30 days of leaving the hospital, or within such time as it would be medically appropriate to begin an active course of treatment, where the individual's condition is such that SNF care would not be medically appropriate within 30 days after discharge from a hospital. The skilled services must be for a medical condition that was either treated during the qualifying three-day hospital stay, or started while the beneficiary was already receiving covered SNF care. Additionally, an individual shall be deemed not to have been discharged from a SNF, if within 30 days after discharge from a SNF, the individual is again admitted to a SNF. Adoption by TRICARE of most Medicare coverage standards does not include Medicare coinsurance amounts. Extended care services furnished to an inpatient of a SNF by such SNF (except as provided in subparagraphs (C), (F), and (G)) include:

(A) Nursing care provided by or under the supervision of a registered professional nurse;

(B) Bed and board in connection with the furnishing of such nursing care;

(C) Physical or occupational therapy or speech-language pathology services furnished by the SNF or by others under arrangements with them by the facility;

(D) Medical social services;

(E) Such drugs, biologicals, supplies, appliances, and equipment, furnished for use in the SNF, as are ordinarily furnished for the care and treatment of inpatients;

(F) Medical services provided by an intern or resident-in-training of a hospital with which the facility has such an agreement in effect; and

(G) Such other services necessary to the health of the patients as are generally provided by SNFs, or by others under arrangements with them made by the facility.

In addition, Sections 212.1 and 212.3 of the CMS Skilled Nursing Facility Manual provides the following additional detail regarding the three-day prior hospitalization and 30-day rule requirements:

212.1 Three-Day Prior Hospitalization. The 3 consecutive calendar days requirement can be met by stays totaling 3 consecutive days in one or more hospitals. In determining whether the requirement has been met, the day of admission, but not the day of discharge, is counted as a hospital inpatient day.

To be covered, the extended care skilled nursing facility services must be needed for a

condition which was treated during the patient's qualifying hospital stay, or by a condition which arose while the patient was in the facility for treatment of a condition for which the patient was previously treated in the hospital. In addition, the qualifying hospital stay must have been medically necessary. The contractor will determine whether this requirement is met; where the situation warrants it, by checking with the attending physician and the hospital.

212.3 Thirty-Day Transfer.

A. General. Post-hospital extended care services represent an extension of care for a condition for which the individual received inpatient hospital services. Extended care services are "post-hospital" if initiated within 30 days after discharge from a hospital stay, which included at least 3 consecutive days of medically necessary inpatient hospital services. (In certain circumstances the 30-day period may be extended, as described in B. below).

In determining the 30-day transfer period, the day of discharge from the hospital is not counted in the 30 days. For example, a patient discharged from a hospital on August l and admitted to a SNF on August 31 was admitted within 30 days. The 30-day period begins to run on the day following actual discharge from the hospital and continues until the individual is admitted to a participating SNF, and requires and receives a covered level of care. Thus, an individual who is admitted to a SNF within 30 days after discharge from a hospital, but does not require a covered level of care until more than 30 days after such discharge, does not meet the 30-day requirement. (See B. below for an exception under which such services may be covered.)

If an individual whose SNF stay was covered upon admission is thereafter determined not to require a covered level of care for a period of more than 30 days, payment could not be resumed for any extended care services this individual may subsequently require even though this individual has remained in the facility. Such services could not be deemed to be "posthospital" extended care services. (For exception, see B. below.)

B. Medical Appropriateness Exception. An elapsed period of more than 30 days is permitted for SNF admissions where the patient's condition makes it medically inappropriate to begin an active course of treatment in a SNF within 30 days after hospital discharge, and it is medically predictable at the time of the hospital discharge that the patient will require covered care within a predeterminable time period. The fact that a patient enters a SNF within 30 days of discharge from a hospital, for either covered or noncovered care, does not necessarily negate coverage at a later date, assuming the subsequent covered care was medically predictable.

1. Medical Needs Are Predictable. In determining the type of case which this exception is designed to handle, it is necessary to recognize the intent of the extended care benefit itself. The extended care benefit covers relatively short-term care when a patient requires skilled nursing or skilled rehabilitation services as a continuation of treatment begun in the hospital. The requirement that covered extended care services be provided in a SNF within 30 days after hospital discharge is one means of assuring that the SNF care is related to the prior hospital care.

This exception to the 30-day requirement recognizes that for certain conditions SNF care can serve as a necessary and proper continuation of treatment initiated during the hospital stay, although it would be inappropriate from a medical standpoint to begin such treatment within 30 days after hospital discharge. Since the exception is intended to apply only where the SNF care constitutes a continuation of care provided in the hospital, it will be applicable only where, under accepted medical practice, the established pattern of treatment for a particular condition indicates that a covered level of SNF care will be required within a predeterminable time frame. Accordingly, to qualify for this exception it must be medically predictable at the time of hospital discharge that a covered level of skilled nursing facility care will be required within a predictable period of time for the treatment of a condition for which hospital care was received and the patient must begin receiving such care within that time frame.

An example of the type of care for which this provision was designed is a hip fracture case. Under the established pattern of treatment of hip fractures it is known that skilled therapy services will be required subsequent to hospital care, and that they can normally begin within 4-6 weeks after hospital discharge, when weight bearing can be tolerated. Under the exception to the 30-day rule, the admission of a hip fracture patient to a SNF within 4-6 weeks after his hospital discharge for skilled care, which as a practical matter can only be provided on an inpatient basis by a SNF, would be considered a timely admission.

2. Medical Needs Are Not Predictable. When a patient's medical needs and the course of treatment are not predictable at the time of hospital discharge because the exact pattern of care which he will require and the time frame in which it will be required is dependent on the developing nature of his condition, his admission to a SNF more than 30 days after discharge from the hospital could not be justified under this exception to the 30-day rule. For example, in some situations the prognosis for a patient diagnosed as having cancer is such that it can reasonably be expected that he will require additional care at some time in the future. However, at the time of his discharge from the hospital it is difficult to predict the actual services which will be required or the time frame in which the care will be needed. Similarly it is not known in what setting any future necessary services will be required; i.e., whether he will require the life-supporting services found only in the hospital setting, the type of care covered in a SNF, the intermittent type of care which can be provided by a home health agency, or custodial care which may be provided either in a nursing home or his place of residence. In some instances such patients may require care immediately and continuously; others may not require any skilled care for much longer periods, perhaps measured in years. Since in such cases it is not medically predictable at the time of the hospital discharge that the individual will require covered SNF care within a predeterminable time frame, such cases do not fall within the 30-day exception.

3. SNF Stay Prior to Beginning of Deferred Covered Treatment. In some cases where it is medically predictable that a patient will require a covered level of SNF care within a predeterminable time frame, the individual will also have a need for a covered level of SNF care within 30 days of hospital discharge. In such situations, this need for covered SNF care does not negate further coverage at a future date even if there is a noncovered interval of more than 30 days between the two stays, provided all other requirements are met. (See example No. l below.) However, this rule applies only where part of the care required involves deferred care which was medically predictable at the time of hospital discharge. If the deferred care is not medically predictable at the time of hospital discharge, then coverage

may not be extended to include SNF care following an interval of more than 30 days of noncovered care. (See example No. 2 below). Where it is medically predictable that a patient will require a covered level of SNF care within a specific time frame, the fact that an individual enters a SNF immediately upon discharge from the hospital for noncovered care does not negate coverage at a later date, assuming the requirements of the law are met (see example No. 3 below).

EXAMPLE NO. 1: A patient who has had an open reduction of a fracture of the neck of the femur and has a history of diabetes mellitus and angina pectoris is discharged from the hospital on September 1, 2002, and admitted immediately to a SNF. He requires among other services careful skin care, appropriate oral medications, a diabetic diet, a therapeutic exercise program to preserve muscle tone and body condition, and observation to detect signs of deterioration in his condition or complications resulting from his restricted mobility, which necessitates skilled management of his care to ensure his safety and recovery. It is also medically predictable that when he reaches weight bearing, skilled rehabilitative services will be required. After he is in the SNF for two days, he becomes unhappy and at his request is released to his home in the care of a full-time private duty nurse. Five weeks later when he reaches weight bearing he is readmitted to the SNF for the needed rehabilitative care. The patient would be eligible for coverage under the program for the care furnished him during both of these stays.

EXAMPLE NO. 2: An individual is admitted to a SNF for daily skilled rehabilitative care which as a practical matter can only be provided on an inpatient basis in a SNF. After three weeks the therapy is discontinued because the patient's condition has stabilized and daily skilled services are no longer required. Six weeks later, however, as a result of an unexpected change in the patient's condition, daily skilled services are again required. Since the second period of treatment did not constitute care which was predictable at the time of hospital discharge and could not thus be considered as care which was deferred until medically appropriate, it would not represent an exception to the 30-day rule. Therefore, since more than 30 days of noncovered care had elapsed between the last period of covered care and the reinstitution of skilled services, reimbursement could not be made under the extended care benefit for the latter services.

EXAMPLE NO. 3: A patient whose right leg was amputated was discharged from the hospital and admitted directly to a SNF on September 1, 2002. Although upon admission to the SNF the patient required help with meeting his activities of daily living, he did not require daily skilled care. Subsequently, however, after the stump had healed, daily skilled rehabilitative services designed to enable him to use a prosthesis were required. Since at the time of the patient's discharge from the hospital it was medically predictable that at a predeterminable time interval, covered SNF care would be required, and since such care was initiated when appropriate, the patient would be entitled to extended care benefits for the period during which such care was provided.

4. Effect of Delay in Initiation of Deferred Care. As indicated, where the required care commences within the anticipated time frame the transfer requirement would be considered met even though more than 30 days have elapsed. However, situations may occur where complications necessitate delayed initiation of the required care and treatment beyond the usual anticipated time frame (e.g., skilled rehabilitative services which will enable an amputee patient to use a prosthetic device must be deferred due to an infection in the stump). In such situations, the 30-day transfer requirement may still be met even though care is not started within the usual anticipated time frame, if the care is begun as soon as medically possible and the care at that time is still reasonable and necessary for the treatment of a condition for which the patient received inpatient hospital care.

5. Effect on Spell of Illness. In the infrequent situation where the patient has been discharged from the hospital to his home more than 60 days before he is ready to begin a course of deferred care in a SNF, a new spell of illness begins with the day the beneficiary enters the SNF thereby regenerating another 100 days of extended care benefits. Another qualifying hospital stay would not be required, providing the care furnished is clearly related to the hospital stay in the previous spell of illness and represents care for which the need was predicted at the time of discharge from such hospital stay.

C. Readmission to a SNF. If an individual who is receiving covered posthospital extended care leaves a skilled nursing facility and is readmitted to the same or any other participating skilled nursing facility for further covered care within 30 days, the 30-day transfer requirement is considered to be met. Thus, the period of extended care services may be interrupted briefly and then resumed, if necessary, without hospitalization preceding the readmission to a SNF. (See B.3 above for situations where a period of more than 30 days between SNF discharge and readmission, or more than 30 days of noncovered care in a SNF, is followed by later covered care.)

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