

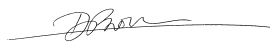


Commonwealth of Massachusetts
Executive Office of Health and Human Services
Division of Medical Assistance

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Boston, MA 02111
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MASSHEALTH
TRANSMITTAL LETTER NF-47
August 2003

TO: Nursing Facilities Participating in MassHealth

FROM: Douglas S. Brown, Acting Commissioner 

RE: *Nursing Facility Manual* (Payment for Leave-of-Absence Days)

The Division is revising the nursing facility regulations about the payment of leave-of-absence (LOA) days for MassHealth members in nursing facilities. The revision conforms the Division's regulations to the legislative language contained in Section 533 of Chapter 26 of the Acts of 2003.

The revisions discontinue MassHealth payments for all medical leave of absence (MLOA) and non medical leave of absence (NMLOA) days. Providers should continue to indicate all MLOA and NMLOA days on their claim forms. Providers should not return any overpayment amounts to the Division for MLOA or NMLOA days. At a later date, the Division will systematically adjust claims and recover any overpayment amounts. However, the Division will pay for remaining MLOA and NMLOA days up to the maximum allowed benefit for those members who are on a medical or non medical leave of absence on the effective date of this regulation.

These regulations are effective August 15, 2003.

NEW MATERIAL

(The pages listed here contain new or revised language.)

Nursing Facility Manual

Pages iv, 4-1, 4-2, and 4-11 through 4-14.

OBSOLETE MATERIAL

(The pages listed here are no longer in effect.)

Nursing Facility Manual

Pages iv, 4-11, and 4-12 — transmitted by Transmittal Letter NF-42

Pages 4-1, 4-2, 4-13, and 4-14 — transmitted by Transmittal Letter NF-45

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456.401: Nursing Facility Services: Introduction

130 CMR 456.000 establishes the requirements for nursing-facility services under MassHealth. All nursing facilities participating in MassHealth must comply with the regulations of the Division of Medical Assistance governing MassHealth including, but not limited to, the regulations set forth in 130 CMR 456.000 and 130 CMR 450.000.

456.402: Definitions

Board of Hearings — the unit within the Division of Medical Assistance that is responsible for administering the fair-hearing process under 130 CMR 610.000 and claims for adjudication hearings under 130 CMR 450.241, including hearings about transfers and discharges of residents by nursing facilities.

Discharge — the removal from a nursing facility to a noninstitutional setting of an individual who is a resident where the discharging nursing facility ceases to be legally responsible for the care of that individual; this includes a nursing facility’s failure to readmit following hospitalization or other medical leave of absence.

Fair Hearing — an administrative, adjudicatory proceeding conducted pursuant to 130 CMR 610.000 to determine the legal rights, duties, benefits, or privileges of applicants and members, or residents.

Hospital — an inpatient facility that is licensed as a hospital by the Massachusetts Department of Public Health.

Length of Stay — the duration of a member's inpatient hospital stay at a Medicare hospital level of care during a medical leave of absence.

Medical Leave of Absence — an inpatient hospital stay at a Medicare level by a member who is a resident of a nursing facility.

Medicare Hospital Level of Care — a level of care that meets all criteria, as determined by the Centers for Medicare and Medicaid Services or its agent, for MassHealth payment for hospital care.

Member — a person determined by the Division to be eligible for MassHealth.

Mobility System — any manual or motorized wheelchair or other wheeled device, such as a scooter, including its components, accessories, and modifications, that is prescribed by a physician.

Nursing Facility — an institution or a distinct part of an institution that meets the provider-eligibility and certification requirements of 130 CMR 456.404 or 456.405. For requirements related to the transfer and discharge of residents, the term nursing facility also includes a nursing facility participating in Medicare, whether or not it participates in MassHealth.

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Patient-Paid Amount — The portion of monthly income that a member in a nursing facility must contribute to the cost of care.

Personal Needs Allowance (PNA) — the designated portion of monthly income that a member in a facility is allowed to keep for personal expenses.

Personal Needs Allowance (PNA) Account — an account or accounts administered by a nursing facility on behalf of a member. The account may be used to deposit the PNA and any other money, such as a gift, belonging to the member.

Resident — an individual receiving care in a nursing facility regardless of whether the individual is a MassHealth member.

Transfer — movement of a resident from:

- (1) a Medicaid- or Medicare-certified bed to a noncertified bed;
- (2) a Medicaid-certified bed to a Medicare-certified bed;
- (3) a Medicare-certified bed to a Medicaid-certified bed;
- (4) one nursing facility to another nursing facility; or
- (5) a nursing facility to a hospital, or any other institutional setting.

A nursing facility’s failure to readmit a resident following hospitalization or other medical leave of absence, resulting in the resident being moved to another institutional setting is also a transfer. Movement of a resident within the same facility from one certified bed to another bed with the same certification is not a transfer.

Unit-Dose Packaging — an individual drug product container usually consisting of foil, molded plastic, or laminate with indentations for a single solid oral dosage form, with any accompanying materials or components, including labeling. Each individual container fully identifies the drug and protects the integrity of the dosage. For purposes of 130 CMR 456.000, an assemblage of multiple, unlabeled single doses (traditional “bingo cards” or “bubble packs”) is not unit-dose packaging.

Working Days — Monday through Friday except for legal holidays.

456.403: Eligible Members

- (A) (1) MassHealth Members. The Division pays for nursing-facility services only when provided to eligible MassHealth members, subject to the restrictions and limitations in the Division’s regulations. The Division’s regulations at 130 CMR 450.105 specifically state which services are covered and which members are eligible to receive those services.
- (2) Recipients of Emergency Aid to the Elderly, Disabled and Children. For information on covered services for recipients of Emergency Aid to the Elderly, Disabled and Children, see 130 CMR 450.106.
- (B) For information on verifying member eligibility and coverage type, see 130 CMR 450.107.

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(C) If the patient dies and the facility has received a patient-paid amount in excess of the per diem rate for the number of days the member was in the facility, then the facility must deposit the balance into the member's personal needs account or return the balance to the party who paid the patient-paid amount. See 130 CMR 456.614 for the disposition of the personal needs account when a member dies.

456.424: Limitations on Charges to Members

(A) A nursing facility may only charge members for items requested by the member. Before charging the member, the facility must inform the member of the cost of the requested item. The facility must not charge a member for any item or service covered by MassHealth or Medicare.

(B) Items for which the nursing facility must not charge the member include, but are not limited to, the following:

- (1) group activities or entertainment that occur within the facility;
- (2) parties organized by the facility;
- (3) medically necessary drugs, medical supplies, or medical services;
- (4) funeral expenses;
- (5) room and board to the facility;
- (6) wheelchair purchase, rental, or repair;
- (7) transportation to obtain necessary medical treatment; and
- (8) service charges for maintaining the member's personal needs allowance (PNA) account.

456.425: Medical Leave of Absence: Introduction

In accordance with federal law, a nursing facility must establish and follow a written policy about its bed-hold period, which may not be inconsistent with the Division's bed-hold policy. Following a medical leave of absence, the nursing facility must immediately readmit the member to the facility, to the next available bed in a semiprivate room, unless the member no longer requires the services provided by the nursing facility.

(130 CMR 456.426 and 456.427 Reserved)

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456.428: Medical Leave of Absence: Readmission

If a member is hospitalized, the nursing facility must readmit the member to the next available bed in a semiprivate room, provided that the member continues to require nursing-facility services. Members who have been authorized for payment of nursing-facility services who are admitted to a hospital from a nursing facility may be readmitted to the same facility without a new authorization except when a hospitalization exceeds six months. When a hospitalization exceeds six months, the nursing facility must request a new authorization for nursing-facility services before readmitting the member.

456.429: Medical Leave of Absence: Failure to Readmit

(A) When a nursing facility is notified that the resident is ready to return to the facility, the nursing facility must readmit the resident following a medical leave of absence. If the nursing facility does not allow the resident to be readmitted following hospitalization or other medical leave of absence, the nursing facility's failure to readmit the resident will be deemed a transfer or discharge. The nursing facility must then provide the resident and an immediate family member or legal representative with a notice explaining its decision not to readmit the resident. The notice must comply with the requirements set forth in 130 CMR 456.701, and must be provided to the resident and an immediate family member or legal representative at the time such determination is made.

(B) A nursing facility that fails to readmit a member who requires nursing facility services or otherwise violates these provisions may be subject to administrative action.

(130 CMR 456.430 through 456.450 Reserved)

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