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CHAPTER FORTY-SIX

SWING BEDS

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## **Chapter 46. Swing Beds**

### **Rule No. 560-X-46-.01. General Conditions of Participation**

(1) Swing beds are defined as hospital beds that can be used for either skilled nursing facility (SNF) or hospital acute care levels of care on an as needed basis if the hospital has obtained a swing bed approval from the Department of Health and Human Services. Swing bed hospitals must:

(a) Have fewer than 100 beds (excluding newborn and intensive care beds) and be located in a rural area as defined by the Census Bureau based on the most recent census;

(b) Be Medicare certified as a swing bed provider;

(c) Have a certificate of need for swing beds;

(d) Be substantially in compliance with SNF conditions of participation for patient rights, 42 CFR Section 405.1121(K)(2), (3), (4), (7), (8), (10), (11), (13), and (14); specialized rehabilitation services, 42 CFR Section 405.1126(a), (b), and (c); dental services, 42 CFR Section 405.1129; social services 42 CFR Section 405.1130; patient activities, 42 CFR Section 405.1131; and discharge planning, 42 CFR Section 405.1137(h). Most other SNF conditions would be met by virtue of the facilities compliance with comparable conditions of participation for hospitals;

(e) Must not have in effect a 24 hour nursing waiver granted under 42 CFR Section 405.1910(c);

(f) Must not have had a swing bed approval terminated within the two years previous to application for swing bed participation;

(g) Be in compliance with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975; and

(h) Execute an Alabama Medicaid Agency provider agreement.

(2) Refer to Chapter 10 for detailed information on SNF policies and procedures which will be applicable for swing beds.

Authority: Title XIX, Social Security Act; Civil Rights Act of 1964; Rehabilitation Act of 1973; State Plan, Attachment 4.19D; 42 CFR Section Section 405.1121, 405.1126, 405.1130, 405.1131, 405.1137, 482.66; 45 CFR Section Section 80, 84, and 90. Emergency rule effective March 30, 1989. Permanent rule effective July 13, 1989.

### **Rule No. 560-X-46-.02. Enrollment**

(1) Providers wishing to enroll must submit a written request to Medicaid and

(a) Proof of current hospital licensure if not already on file at Medicaid,

(b) Proof of current Medicare swing bed certification if not already on file at Medicaid,

(c) Proof of a CON if not on file at Medicaid.

Each request will be reviewed for completeness and accuracy prior to approval of the application.

(2) Providers approved for enrollment will be issued a provider agreement which must be signed and returned to Medicaid within 30 days of the date mailed to the provider.

(3) Provider agreements are valid for no more than 12 calendar months.

- (4) The effective date of enrollment cannot be earlier than the date of the enrollment application.

Authority: Title XIX, Social Security Act; State Plan, Attachment 3.1A, 4.19D, 42 CFR Section 482.66. Emergency rule effective March 30, 1989. Permanent rule effective July 13, 1989.

**Rule No. 560-X-46-.03. Reimbursement**

(1) Swing bed services are reimbursed on a per diem basis at the average rate per patient day paid by Medicaid to SNF/ICF combination facilities for routine services furnished during the previous calendar year. There shall be no year-end cost settlement. Refer to Chapter 22 for details on rate computation.

(2) Ancillary services such as lab, x-ray, and prescription drugs must be billed and reimbursed separately under the appropriate program areas. For example, x-ray services provided in the outpatient department of the hospital should be billed as outpatient hospital services. These services will be subject to routine benefit limitations.

(3) The per diem rate includes routine supplies and over the counter medications such as acetaminophen, aspirin, antacids, antidiarrheals, laxatives, and stool softeners which are routinely used in the care of patients.

(4) Medicaid may pay the Medicare Part A coinsurance for dually eligible or QMB recipients who qualify under Medicare rules for skilled level of care. An amount equal to that applicable to Medicare Part A coinsurance, but not greater than the average nursing facility rate will be paid.

Authority: Title XIX, Social Security Act; State Plan Attachment 3.1-A, 4.19-D; 42 CFR Sections 447.280, 413.114, 413.53. Emergency rule effective March 30, 1989. Permanent rule effective July 13, 1989. Emergency rule effective January 8, 1990. Effective date of this amendment, February 13, 1991.

**Rule No. 560-X-46-.04. Level of Care**

(1) In order to receive swing bed services recipients must require SNF level of care on a daily basis. The skilled services provided must be ones that, on a practical basis, can only be provided on an inpatient basis.

(2) A condition that does not ordinarily require skilled care may require this care because of a special medical condition. Under such circumstances the service may be considered skilled because it must be performed by or supervised by skilled nursing or rehabilitation personnel.

(3) The restoration potential of a patient is not the deciding factor in determining whether skilled services are needed. A patient may need skilled services to prevent further deterioration or preserve current capabilities.

(4) Swing bed admissions not covered by Medicare because they do not meet medical criteria shall also be considered non-covered by Medicaid. Therefore, these services cannot be reimbursed as a straight Medicaid service.

Authority: Title XIX, Social Security Act; State Plan, Attachment 3.1-A, 4.19-B; 42 CFR Section 409.30, 409.31, 490.32, 456.600. Emergency rule effective March 30, 1989. Permanent rule effective July 13, 1989.

**Rule No. 560-X-46-.05. Services**

(1) Swing bed services include care ordinarily provided by a SNF facility (Refer to Chapter 10). Such services include but are not limited to:

(a) Nursing care provided by or under the supervision of a registered nurse.

(b) Bed and board in a semi-private room. Private accommodations may be utilized if the patient's condition requires that he/she be isolated, the facility has no ward or semi-private rooms, or all semi-private rooms were full at the time of admission and remain so during the recipient's stay.

(c) Over the counter drugs including acetaminophen, aspirin, antacids, antidiarrheals, and stool softeners which are routinely used in the care of patients.

(d) Personal services and supplies ordinarily furnished by the facility for the comfort and cleanliness of the patient.

(e) Nursing and treatment supplies as ordered by the patient's physician or as required for quality nursing care. These include, but are not limited to, needles, syringes, catheters, catheter trays, drainage bags, indwelling catheters, enema bags, normal dressing, special dressings (such as ABD pads and pressure dressings) intravenous administration sets, normal intravenous fluids (such as glucose, D5W, D10W).

(2) Services must be ordered by a physician.

Authority: Title XIX, Social Security Act; State Plan, Attachment 3.1-A, 4.19-D; 42 CFR Section 409, Subparts C and D. Emergency rule effective March 30, 1989. Permanent rule effective July 13, 1989.

**Rule No. 560-X-46-.06. Benefit Limitations**

(1) Swing bed services are unlimited as long as the recipient meets the SNF level of care medically and all other eligibility criteria which includes financial criteria.

Authority: Title XIX, Social Security Act; State Plan, Attachment 3.1-A, 4.19-D; 42 CFR Section 409, Subpart C; Omnibus Budget Reconciliation Act of 1987, Section 4005(b)(2). Emergency rule effective March 30, 1989. Permanent rule effective July 13, 1989.

**Rule No. 560-X-46-.07. Billing of Recipients**

(1) No eligible Alabama Medicaid recipient is to receive a bill or statement for swing bed services once that recipient has been accepted as a Medicaid patient, except for the appropriate patient liability as described in Chapter 25.

(2) It is the responsibility of the provider to follow up with the fiscal agent and/or Medicaid, and not the recipient, on any problem or unpaid claim.

(3) A provider agrees to accept as payment in full the amount paid by the State, plus any patient liability amount to be paid by the recipient, for covered services, and further agrees to make no additional charge or charges for covered services to the recipient, sponsor, or family of the recipient.

(4) Providers may bill eligible recipients for non-covered services; i.e., private room accommodation charges incurred due to recipient's request, or personal comfort items requested by the recipient.

Authority: Title XIX, Social Security Act; State Plan, 3.1-A, 4.19-D; 42 CFR 447.15, 447.50, 447.55. Emergency rule effective March 30, 1989. Permanent rule effective July 13, 1989.

**Rule No. 560-X-46-.08. Admission and Periodic Review**

(1) The Medicaid Medical and Quality Review Unit or designee will perform admission review of all Medicaid admissions to ensure the necessity and appropriateness of the admission and that a physician has certified on the date of admission, the need for swing bed care. Medicaid or its designee will certify the level of care required by the patient at the time of admission by utilizing Form 199.

(2) For applications which are not approved by the Medical and Quality Review Unit or its designee, a Medical Director, will review and either approve or deny the medical eligibility.

(3) Recipients must meet Skilled Nursing Facility (SNF) medical and financial requirements for swing bed admissions just as they are required for SNF admissions. Refer to Chapter 10 and Chapter 25.

(4) For recipients who receive retroactive Medicaid eligibility while utilizing swing bed services, the hospital should furnish all doctors' orders, progress and nurses' notes for the time in question to Medicaid's fiscal agent.

(5) Medical approvals may be issued by the Medicaid Medical and Quality Review Unit or designee if the information provided to Medicaid documents the need for SNF care and the recipient meets criteria set forth in Rule 560-X-10-.10 for SNF care.

(a) The admission application packet must be sent to the Medicaid Medical and Quality Review unit or designee within 60 days from the date Medicaid coverage is sought and consist of a fully completed Medicaid Status Notification Form 199 including all documentation

certified by the applicant's attending physician to support the need for nursing home level of care. Refer to Rule 560-X-10-.10 and .13, for in-depth information.

(b) Once the Form 199 has been reviewed and approved medically, the facility is notified by a letter advising that the patient is medically eligible for swing bed services.

(6) Continued stay reviews are required to assure the necessity and appropriateness of skilled care and effectiveness of discharge planning. Recertification of SNF patients is required 30, 60, and 90 days after admission and then every 60 days thereafter. Physicians must state "I certify" and specify that the patient requires skilled care for continued stay in the facility. Facilities must have written policies and procedures for recertification.

(7) Reimbursement requires a 3-day qualifying stay in any acute care hospital prior to admission to a swing bed in any hospital. The swing- bed stay must fall within the same period of illness as the qualifying stay.

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**Statutory Authority:** Title XIX, Social Security Act; State Plan, Attachment 3.1-A, 4.19-D; 42 CFR Section 435.1009, 456.1, 435.911, 409, Subpart D; 482.66.

**History:** Emergency Rule effective March 30, 1989. Permanent rule effective July 13, 1989.

Amended: Filed August 20, 1999; effective November 10, 1999. Amended: Filed November 12, 2013; effective December 17, 2013.

#### **Rule No. 560-X-46-.09. - RESERVED**

#### **Rule No. 560-X-46-.10. Patient Agreements**

(1) Providers of swing bed care must execute a Nursing Facility/Patient Agreement for each Medicaid patient on admission and when any financial terms change. This agreement is executed for patients already eligible for Medicaid and patients who are applying for Medicaid eligibility. The patient or sponsor will be furnished a copy of the completed agreement and a copy is maintained in the facility's files for audit purposes. Refer to 560-X-10-.12 for additional information on patient agreements.

Authority: Title XIX, Social Security Act; State Plan, Attachment 4.19D; 42 CFR Section 405.1121. Emergency rule effective March 30, 1989. Permanent rule effective July 13, 1989.