



Related MLN Matters Article #: SE0606 **Revised**

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Medicare Certified Swing Bed Hospital Services

Key Words

SE0606, Certified, Swing, SNF, PPS, Prospective

Provider Types Affected

Providers billing Medicare Fiscal Intermediaries (FIs) for services provided to beneficiaries in Medicare certified swing bed hospitals

Note: SE0606 was revised to update the instructions for finding regulations on the Internet. This information can be found in the Important Links section below.

Key Points

- Under the Social Security Act (Section 1883(a)(1), [42 U.S.C. 1395tt]), any hospital that has an agreement under Section 1866 may enter into an agreement with the Centers for Medicare & Medicaid Services (CMS) in which its inpatient hospital facilities may be used for furnishing the types of service that, if furnished in a skilled nursing facility (SNF), would constitute extended care services (subject to Section 1883(b)).
- Such a hospital is known as a **swing bed** hospital.
- Section 1883 (b) of the Social Security Act requires that the hospital be located in a rural area and have fewer than 100 beds. Also (except as otherwise provided under CMS regulations) under Subsection (c), an agreement with a hospital must:
 - Be of the same duration and subject to termination on the same conditions as are agreements with SNFs under the Social Security Act (Section 1866); and
 - Impose (where not inconsistent with any provision of this section) the same duties, responsibilities, conditions, and limitations as those imposed under such agreements entered into under Section 1866 of the Social Security Act.
- A swing bed must be in substantial compliance (under the Code of Federal Regulations (CFR), Title 42, Part 482, Section 482.66 (b) (42CFR 482.66 (b)) with the following SNF requirements:

- Resident rights;
- Admission, transfer, and discharge rights;
- Resident behavior and facility practices;
- Patient activities;
- Social services;
- Discharge planning;
- Specialized rehabilitative services; and
- Dental services.
- A swing bed must:
 - Not have in effect a 24-hour nursing waiver granted under 42 CFR 488.54(c).
 - Meet all of the Conditions of Participation applicable to a Medicare-certified hospital set forth in 42 CFR 482; and
 - Not have had a swing bed approval terminated within the two years previous to the current application for a swing bed agreement.
- Under the Social Security Act, Section 1883(a)(1), payment for swing bed services will be made only for services for which payment would be made as post-hospital *extended care services* if those services had been furnished by an SNF under an agreement entered into under Section 1866.
- Coverage of extended care services are subject to:
 - Requirements set forth in the Social Security Act (Section 1861(i)); and
 - Implementing regulations found in 42 CFR 409 (Subpart D), including that of the three-day qualifying inpatient stay.

Note: Time spent by the beneficiary in observation status or in the emergency room prior to (or in lieu of) a formal inpatient admission to the hospital does not count toward the three-day qualifying inpatient hospital stay. In addition, the beneficiary must have been transferred to a participating SNF within 30 days after discharge from the hospital, unless certain specified exceptions apply.

- The level of care criteria set forth in 42 CFR 409.31 requires that the skilled nursing and/or skilled rehabilitation services provided to a beneficiary must:
 - Be ordered by a physician;
 - Require the skills of technical or professional personnel;
 - Be furnished directly by, or under the supervision of, such personnel; and
 - Be provided on a daily basis for a condition for which the beneficiary received inpatient hospital or inpatient Critical Access Hospital (CAH) services, **or** which arose while the beneficiary was receiving care in a swing bed hospital for which he or she received inpatient hospital or inpatient CAH services.

- The Balanced Budget Act (BBA) of 1997 (Section 4432(a), <http://www.cms.hhs.gov/SNFPPS/>) requires that swing beds located in hospitals (short term, long term, critical access, and rehabilitation) that are certified as swing bed hospitals be subject to payment based upon the provisions of the SNF Prospective Payment System (PPS), effective with the cost reporting periods beginning on or after July 1, 2002.
- Regulatory requirements specific to payment of swing bed services under the SNF PPS can be found in 42 CFR 413.114 and 42 CFR 413 (Subpart J).
- Further interpretation of both the Social Security Act and the regulations can be found in the *Medicare Provider Reimbursement Manual* (CMS Publication 15-1, Section 2831 to Section 2837).
- Under the Benefits Improvement and Protection Act (BIPA) of 2000 (Section 203), swing beds in CAHs are exempt from Section 1888(e)(7) of the Social Security Act (http://www.socialsecurity.gov/OP_Home/ssact/title18/1888.htm).
- This provision applies the SNF PPS to SNF services furnished by swing bed hospitals generally, effective with cost reporting periods beginning on or after the date of the enactment of the BIPA 2000 (December 21, 2000).
- This provision also established a new reimbursement system for CAHs that provides for full reasonable cost payment for CAH swing-bed services instead of payment based upon SNF PPS.
- Providers of swing bed services are eligible for additional payment for services that are excluded from the SNF Part A consolidated billing (CB) requirements.
- According to Program Memorandum A-02-060, when a swing bed hospital provides a service (that is excluded from SNF PPS) to a beneficiary receiving SNF-level services, the hospital can submit a separate bill for the service but must use TOB 13x.

Important Links

The related MLN Matters article can be found at <http://www.cms.hhs.gov/MLNMattersArticles/downloads/SE0606.pdf> on the CMS website.

Any CFR referenced in special edition article SE0606 can be retrieved at the following GPO website: <http://www.gpoaccess.gov/cfr/retrieve.html>. Once at this GPO website, providers should:

1. Select the revision year to review (2005 for the swing bed rule mentioned in this article) for prior years or select "Most Recent Available," and fill in the TITLE, PART, and FILE TYPE (Text, PDF, or Summary) of the CFR document they want to review. (If they do not find their selection in the year they searched, they should select an earlier year and repeat the process until they use a year that contains the section they seek.)
2. Fill in **either** a Section Number **or** a Subpart letter.
3. Next, type the title, part, and section (or subpart) in the boxes provided.
4. Finally, select the type of file they wish to retrieve by using the pull-down menu. Documents are available as ASCII text and PDF files. Summary files are ASCII text files that include only the first 100 lines of a document. ASCII text files are recommended.
5. Next, select "GO," which will take them to the desired CFR.

For example, if they want to review 42 CFR 483.12 (a)(1), they would type the following (bolded) into the indicated boxes:

Title: **42**

Part: **483**

Subpart: **12.**

They should then select "**GO**" to be taken to the desired document, at which point they can scroll down to Subpart (a)(1).