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-45
December 2002

TO: Nursing Facility Providers Participating in MassHealth

FROM: Wendy E. Warring, Commissioner

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

The Division of Medical Assistance is revising the nursing facility regulations about the payment for leave of absence days for MassHealth members in nursing facilities. The revision will conform the Division's regulations to the legislative language contained in Sections 166 and 167 of Chapter 184 of the Acts of 2002 (the Commonwealth's Fiscal Year 2003 budget).

There are two types of leave-of-absence days: medical (MLOA) and non-medical (NMLOA). Previously, MLOA days were paid at the member's pre-absence payment rate for the first 10 days and at the nursing facility's lowest case mix rate for the 11th through the 20th day. NMLOA days were paid at the member's pre-absence rate for all days.

Effective for dates of service on and after August 1, 2002, all MLOA and NMLOA days will be paid at the facility's lowest payment rate for all days.

These regulations were filed as an emergency and were effective August 1, 2002.

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

Nursing Facility Manual

Pages 4-1, 4-2, 4-13, and 4-14

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(The pages listed here are no longer in effect.)

Nursing Facility Manual

Pages 4-1 and 4-2 — transmitted by Transmittal Letter NF-44

Pages 4-13 and 4-14 — transmitted by Transmittal Letter NF-42

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. The Division will pay the nursing facility for up to 20 consecutive medical leave-of-absence days in a hospital.

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.

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.

(B) The Division pays the nursing facility for medical leave-of-absence days at the facility's lowest payment rate.

456.428: Medical Leave of Absence: Readmission

(A) If a member is hospitalized for 20 days or less, the nursing facility must immediately readmit the member to the facility, provided that the member continues to require nursing facility services.

(B) If a member's hospitalization exceeds 20 days or does not satisfy the conditions of payment in 130 CMR 456.426(B), the nursing facility is no longer obligated to reserve a bed for the member. The nursing facility must, however, 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.

456.430: Nonmedical Leaves of Absence: Introduction

The Division seeks the fullest integration possible of aged and disabled members into the community. Wherever possible, coordinated support services should be arranged so a member may return to the community. To prevent residents from becoming isolated in nursing facilities and to encourage families to care for members at home, the Division will pay the nursing facility to reserve a bed for a member when the member is temporarily absent from the facility for nonmedical reasons subject to the requirements set forth in 130 CMR 456.431 and 456.432.

456.431: Nonmedical Leaves of Absence: Limitations

The Division will pay for temporary absences for nonmedical leave for members in nursing facilities for up to a total of 15 days per 12-month period starting with the first day of the nonmedical leave. A day is defined as a continuing 24-hour period. Absences from the nursing facility of less than 24 hours do not constitute a day of absence. In special circumstances, the nursing facility may request an extension of the limits on payment of nonmedical leave in accordance with 130 CMR 456.434.

456.432: Nonmedical Leaves of Absence: Conditions for Payment

(A) For the facility to obtain payment for a nonmedical absence, the following conditions must be met.

(1) The member must request the nonmedical leave.

(2) A written authorization from the attending physician is on file in the member's medical record.

(3) During the period of absence the nursing facility must hold the same bed and room for the member and must not admit any other resident in the member's place.

(4) The member's medical record maintained by the facility must document:

(a) the home address, telephone number, and relationship of the person responsible for the member while the member is absent from the facility;

(b) the duration of absence;

(c) the physician's authorization for the absence; and

(d) the member's condition before and after the absence from the facility.

(B) If the member does not return to the facility, the Division will consider the member voluntarily discharged as of the first day of unauthorized absence. The facility must terminate billing the Division as of the first date of unauthorized absence. A voluntary discharge is not a discharge under 130 CMR 456.701 through 456.703 or 610.028 through 610.030.

456.433: Nonmedical Leaves of Absence: Payment

The Division pays the nursing facility for nonmedical leave-of-absence days at the facility's lowest payment rate.

456.434: Nonmedical Leaves of Absence: Extensions

The nursing facility may request an extension beyond the limits for reimbursable absences defined at 130 CMR 456.432 by submitting a written request to the Division of Medical Assistance. Such requests must include the reason for the requested extension, the member's most current management minutes category, the number of days requested, and the number of absence days used in the last 12 months. The Division will authorize extensions in writing to the nursing facility. The nursing facility must keep the authorization on file in the member's medical record.

(130 CMR 456.435 through 456.450 Reserved)