



Commonwealth of Massachusetts
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MASSHEALTH
TRANSMITTAL LETTER NF-51
December 2004

TO: Nursing Facilities Participating in MassHealth
FROM: Beth Waldman, Medicaid Director *BW*
RE: *Nursing Facility Manual* (Reinstatement of Payment for Leave-of-Absence Days)

MassHealth is revising its regulations about the payment of leave-of-absence days for MassHealth members in nursing facilities. The revision conforms the MassHealth regulations to the legislative language contained in Section 409 of Chapter 149 of the Acts of 2004.

MassHealth has initiated the actions necessary to reinstate payment for leave-of-absence days as required by legislation. MassHealth intends to complete all necessary regulation and system changes as quickly as possible to pay for medical leave-of-absence and nonmedical leave-of-absence (MLOA and NMLOA) days retroactively to dates of services on and after July 1, 2004.

These revisions reinstate MassHealth payments for 10 MLOA days per episode and 10 NMLOA days per 12-month period, beginning with the first NMLOA day. Transmittal Letter NF-47 (issued in August 2003) and Nursing Facility Bulletin 126 (issued in September 2004) instruct providers to include MLOA and NMLOA days on all applicable claims. Once the system changes and regulation amendments are in place, providers will receive a retroactive payment from MassHealth for applicable leave-of-absence days included on claims. These days will be paid at the facility's lowest case-mix rate.

These regulations were effective July 1, 2004.

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(The pages listed here are no longer in effect.)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, 4-1, 4-2, and 4-11 through 4-14 — transmitted by Transmittal Letter NF-47

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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 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 MassHealth 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. MassHealth pays a nursing facility for up to 10 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 MassHealth 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. MassHealth pays for nursing-facility services only when provided to eligible MassHealth members, subject to the restrictions and limitations in MassHealth regulations. MassHealth 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

(A) MassHealth pays a nursing facility to reserve a bed for up to 10 consecutive days for a member who is on a medical leave of absence from the nursing facility, if the conditions of 130 CMR 456.426 and 456.427 are met.

(B) In accordance with federal law, a nursing facility must establish and follow a written policy regarding its bed-hold period, which must be consistent with the MassHealth bed-hold policy. Following a medical leave of absence of 10 days or fewer, the nursing facility must allow the member to return to the facility and resume residence unless the member no longer requires the services provided by the nursing facility. When a member's hospitalization exceeds 10 days or does not meet the requirements of 130 CMR 456.426, 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.

456.426: Medical Leave of Absence: Conditions of Payment

- (A) When a member is transferred from a nursing facility to a hospital, the nursing facility must:
- (1) provide the member and an immediate family member or legal representative with notice of the facility's bed-hold policy, including the member's right to return and resume residence in the facility;
 - (2) provide the member and an immediate family member or legal representative with notice of the transfer that complies with the requirements set forth in 130 CMR 456.701 and 456.702;

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- (3) document the date and time of the transfer in the member's record;
- (4) automatically reserve a bed for the member until the close of business on the second working day of the member's hospital stay;
- (5) contact the admitting hospital and obtain the estimated length of stay by the close of business on the second working day of the member's hospital stay and document the estimated length of stay in the member's medical record;
- (6) if the estimated length of stay is 10 consecutive days or fewer, reserve a bed for the balance of the actual length of stay not to exceed 10 consecutive days from the date of admission to the hospital;
- (7) if the hospital advises the nursing facility that the estimated length of stay exceeds 10 consecutive days, not bill MassHealth for a medical leave of absence from the date of such notification by the hospital; and
- (8) ensure that for each day that a bed is reserved, the bed is not occupied.

(B) Notwithstanding 130 CMR 456.426(A), MassHealth does not pay a nursing facility for reserving a bed for a member:

- (1) after the second working day of the member's stay if the nursing facility has failed to obtain the estimate of the length of stay from the hospital;
- (2) if the member has notified the nursing facility in writing that he or she does not wish to return to the facility; or
- (3) for any consecutive medical leave of absence day in excess of the 10 days from the date of transfer from the nursing facility.

(C) When a member is transferred from one inpatient hospital to another inpatient hospital during the medical leave of absence, the nursing facility must continue to reserve a bed for the member for up to the 10th day of the member's absence from the nursing facility as long as the member continues to require a medical leave of absence and the conditions in 130 CMR 456.426(A) and (B) are met. A transfer from one hospital to another continues of the 10-day period initiated on the first day the member originally was transferred from the nursing facility for the original medical leave of absence, and does not initiate another 10-day period.

456.427: Medical Leave of Absence: Payment

(A) The day on which a member is transferred from a nursing facility to a hospital for an inpatient stay is the first day of the medical leave of absence from the nursing facility. The day on which a member is transferred back to a nursing facility or is discharged from the hospital to a noninstitutional setting is not a medical leave of absence day.

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

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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, 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 is 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 Leave of Absence: Introduction

MassHealth seeks the fullest integration possible of aged and disabled members into the community. Wherever possible, coordinated support services will 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, MassHealth 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 Leave of Absence: Limitations

MassHealth pays for temporary absences for nonmedical leave for members in nursing facilities for up to a total of 10 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.

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456.432: Nonmedical Leave 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, MassHealth considers the member to be voluntarily discharged as of the first day of unauthorized absence. The facility cannot bill billing MassHealth for any days 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 Leave of Absence: Payment

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

(130 CMR 456.434 through 456.450 Reserved)