

Sec. 17-134d-79. Requirements for the reservation of beds in nursing homes

(a) Definitions

(1) The definitions contained in Section 19a-537 of the Connecticut General Statutes apply to this subsection and subsections (b), (c) and (d) of this section; and

(2) “Level of Care” is further clarified, for purposes of this section, to refer to the level of care for which the nursing home is licensed, i.e., a chronic and convalescent nursing home or a rest home with nursing supervision. A change in level of care would occur only when the patient, upon return from the hospital, requires care consistent with these licensing standards which is different from his/her care requirements just prior to the time of admission to the hospital. This determination of change in level of care also applies when a patient is required to change from one licensed level to another within a facility which is licensed to provide both chronic and convalescent nursing home care and rest home with nursing supervision care.

(3) “Objective information,” for purposes of this section, means an estimate of the patient’s projected length of hospital stay obtained by the nursing home from a hospital staff person. This prognosis may be obtained from the patient record or the plan of care or given by a physician or other health professional under his direction or by another qualified professional such as a social worker or discharge planner.

(b) Requirements

(1) Nursing homes are required to reserve the bed of a self-pay resident who is hospitalized as long as payment is available to reserve the bed and to inform the self-pay resident and his/her relatives or other responsible person upon admission to the nursing home and upon transfer to a hospital about this requirement.

(2) Nursing homes are required to inform residents who are recipients of medical assistance and their relatives or other responsible person upon admission to the nursing home and upon transfer to a hospital of the conditions under which the nursing home is required to reserve the bed of a resident.

(3) Nursing homes are required to reserve the bed of a resident who is a recipient of medical assistance for each admission to the hospital for up to fifteen days unless the nursing home documents that it has obtained objective information from the hospital that the patient will not return to the nursing home at the same level of care within fifteen days of hospitalization including the day of admission to the hospital.

(4) The bed reserved for a hospitalized resident shall not be made available for use by any other person unless the nursing home records in the resident’s medical record the medical or administrative reasons justifying the change in the resident’s bed and documents that a consultation between the medical director or nursing staff of the nursing home and the treating physician has determined that the change in bed assignment is not anticipated to result in serious harm to the resident.

(5) Nursing homes shall be reimbursed for reserving the bed of a resident who is a recipient of medical assistance except as shown in subsection (b) (5) (C) of this section providing the following conditions are met:

(A) For reimbursement to a maximum of seven days including the day of admission to the hospital, the nursing home must document

(i) that on the date of admission it has a vacancy rate of not more than three beds or three

percent of licensed capacity, whichever is greater, at the same level of care as the hospitalized person, and

(ii) that it has contacted the hospital, documented the contact in the patient's file, and did not receive information that the person would be unable to return to the same level of care within fifteen days of admission to the hospital.

(B) For reimbursement to a maximum of eight additional days, the nursing home must document

(i) that on the seventh day of hospitalization it has a vacancy rate of not more than three beds or three percent of licensed capacity, whichever is greater, at the same level of care as the hospitalized person, and

(ii) that on or before the seventh day but after the third day of hospitalization the nursing home contacted the hospital for an update of the patient's status, documented the contact in the patient's file, and the updated information obtained did not indicate that the patient would be unable to return to the same level of care within fifteen days of admission to the hospital.

(C) If at any time the nursing home receives or obtains objective information from the hospital that the resident will not return to the same level of care within fifteen days of admission to the hospital, then the nursing home shall not request or receive reimbursement for reserving the resident's bed for any days after such information is received including the day the information is received.

(6) If the nursing home is not required to reserve the resident's bed under this section or the hospitalization period exceeds the period of time that a nursing home is required to reserve the resident's bed, the following conditions apply:

(A) The nursing home shall provide the first available bed at the time notice is received of the resident's discharge from the hospital;

(B) The nursing home shall grant to resident priority of admission over applicants for new admission to the nursing home;

(C) If reservation of the bed is requested by the resident who is a recipient of medical assistance, his/her relative or other responsible person, the nursing home may charge a fee to the resident or other responsible person to reserve the bed not exceeding the per diem Medicaid rate for the number of days the resident is absent from the facility; and

(D) If reservation of the bed is required by residents who are not recipients of medical assistance, their relative or other responsible person, the nursing home may charge a fee not exceeding the maximum self-pay rate established by the Department for the reserved bed.

(7) Documentation for compliance with this section is required as follows:

(A) Upon a resident's admission to the hospital, the nursing home must document in the resident's medical record the contact with the hospital as described in subsection (b) (3) of this section to determine if the reservation of the resident's bed is required. Any subsequent contact with the hospital which affects reservation of bed requirements is subject to these same documentation requirements.

(B) For a change in bed assignment as described in subsection (b) (4), of this section, the nursing home must document in the patient's medical record

(i) the medical or administrative reasons for the change, and

(ii) the date and results of the consultation between nursing home medical staff or nursing staff and the treating physician.

(C) For reimbursement for the first seven days and the additional eight days of bed reservation or any part thereof as described in subdivisions (5) (A) and (5) (B) of this subsection, the nursing home must document

(i) the vacancy rates on the first and seventh day of the resident's admission to the hospital. The daily log, patient census, or other similar nursing home record may be used for documentation provided it clearly shows the date of vacancy rate determination and the level of care of the vacant beds, and

(ii) in the resident's medical record, the contacts with the hospital on the first day of admission and on or before the seventh day but after the third day of the resident's admission to the hospital.

(D) Information obtained from hospital contacts which is recorded in the resident's medical record as required in subparagraphs (A) and (C) (ii) of this subdivision shall include the date of the contact, the hospital contact person's name, the source of the information and the length of stay information.

(c) Violations

Violations listed in subdivisions (1) through (7) of this subsection are separate and distinct from each other and one penalty may be imposed for each one of the seven subdivisions that are violated per incidence of hospitalization.

Violations include:

(1) The nursing home made the bed assigned to a hospitalized resident available to another person in violation of subsections (b) (1)–(4) of this section;

(2) The nursing home made an undocumented change in the resident's bed as described in subsection (b) (4) of this section;

(3) The nursing home requested reimbursement for reserve-bed days after it had objective information indicating that the hospitalized resident would not return to the nursing home at the same level of care or within fifteen days of admission in violation of subsection (b) (5) of this section;

(4) The nursing home failed to provide a resident with the first available bed at the time notice is received of the resident's discharge from the hospital in violation of subsection (b) (6) (A) of this section;

(5) The nursing home failed to grant the resident priority of admission over applicants for new admissions to the nursing home in violation of subsection (b) (6) (B) of this section;

(6) The nursing home failed to document the appropriate vacancy rate or hospital contacts;

(7) The nursing home charged hospitalized residents who are recipients of medical assistance for reserving their beds when the nursing home was required to reserve the bed but was ineligible for Medicaid reimbursement because it did not meet the vacancy rate requirement set forth in subsections (b) (5) (A) (i) and (b) (5) (B) (i) of this section.

(d) Remedies

(1) Compliance with this section shall be monitored by the Department on a post-audit basis or whenever a complaint is received. The Department is authorized to impose a penalty not greater than \$8500 for each violation; and

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(2) In addition, the Department shall recoup any payments made to the facility for reserve-bed days for cases in violation of requirements by setting off the amount of such payments against any other payments due the facility or by other methods.

(3) If a violation is discovered prior to payment for reserve-bed days which, because of the violation, would result in inappropriate payment, the Department may deny payment for those reserve-bed days.

(4) Prior to imposing a penalty, and/or recouping payments, the Department shall notify the nursing home of the alleged violation and the accompanying penalty and/or recoupment.

(5) The provider may appeal a decision or a finding of an alleged violation by the Department in accordance with Section 17-311-27 through Section 17-311-40 of the Regulations of Connecticut State Agencies, provided that the appeal is received on or before the fifteenth (15th) day after the receipt of notice of violation or issuance of denial. Computation of time within which an appeal must be received by the Department shall be computed in accordance with Section 17-311-15 of the Regulations of Connecticut State Agencies, as amended from time to time. Imposition of any penalty and/or recoupment shall be stayed pending the outcome of the administrative hearing for the appeal.

(Effective March 26, 1990)