

Ober|Kaler's Maryland Nursing Facility Alert



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Elimination of the Medicaid Program Bed Hold Payment for Hospitalized Residents

All Maryland Nursing Facilities (NFs) have received information from the Department of Health and Mental Hygiene (DHMH) concerning the elimination of Medicaid reimbursement for holding a bed for hospitalized residents, effective July 1, 2012. This included a June 15, 2012 Memorandum to Nursing Home Administrators from Jane Sacco, Chief of the Division of Long Term Care Services at the Office of Health Services. If you do not have a copy of that Memorandum, please contact us and we can provide one. That Memorandum not only addressed Medicaid regulations on this topic. It also referred to notice and readmission requirements under the federal Requirements of Participation and state regulations pertaining to the rights of residents. It mentioned that a Nursing Home Transmittal on this subject is being developed.

Ober|Kaler will also be developing some guidance. We have already been working with individual facilities to review existing policies, procedures and admission agreement provisions affected by this change. Areas that should be addressed include, for example:

- Bed hold notices provided in the admission process and at the time of transfer to a hospital. Some bed hold policies have language that should be reviewed because it distinguishes between private pay and Medicare beneficiaries, versus individuals with confirmed or pending Medicaid eligibility. Practices that ensure bed hold notices are provided when, to whom and in a form required by the applicable rules should

be reviewed. While DHMH will be issuing guidance on this notice, in the meantime, after July 1st, facilities should ensure that residents who are Medicaid beneficiaries or with such applications pending are advised there is no Medicaid bed hold payment.

- Corresponding admission agreement provisions referencing bed holds. OHCQ will be adapting the “model” admission agreement. Our understanding is that facilities using the OHCQ-amended language will not be required to seek 30 day advance review to use it. Facilities are not obligated to use the model language and can seek approval of their own amendments.
- Discharge and transfer policies, procedures and notices used depending on when an individual is involuntarily discharged (and subject to that notice and hearing process) versus individuals who are voluntarily discharged.
- Review of bed hold policies that may or may not take into account sources of funds for bed holds and otherwise unresolved matters such as pending accounts receivable, failure to make private resources such as Social Security payments available to pay for the cost of care, and related matters.
- Compliance with the protection afforded under law to hospitalized residents who have confirmed or pending Medicaid eligibility determinations, that entitles them to readmission to the first available semi-private room. Such compliance can entail review of policies on readmission to a particular bed versus readmission to an available semi-private bed that may not be the one occupied prior to hospitalization.

While facilities will mainly be subject to generally applicable rules, since bed holds are no longer a Medicaid covered service review of facility policies and practices is warranted. This is an area in which implementation guidance will continue to be necessary. But, it is important to have a plan in place ASAP. Since are already working with clients in this regard, we thought this initial memo, followed but further guidance, would be helpful first step.

About Ober|Kaler

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