



Medicare pays the first five days of a stay in a skilled nursing facility (SNF) for a Medicare beneficiary who is correctly assigned to one of the upper 35 (of 53 total) Resource Utilization Groups (RUG) categories

Each year, the Centers for Medicare & Medicaid Services (CMS) publishes in the Federal Register an update to the Medicare skilled nursing facility payment rates (first, a proposed rule; then, a final rule). In these regulations, CMS specifies, each year, which RUGs categories qualify for automatic Medicare coverage for the first five days of a beneficiary's stay. CMS conclusively presumes that residents in these categories meet Medicare's level of care requirements. Residents in lower RUG categories, which do not carry a presumption of coverage, must demonstrate that they need a Medicare-covered level of care.

Regulations

42 C.F.R. §409.30

§ 409.30 Basic requirements.

Posthospital SNF care, including SNF-type care furnished in a hospital or CAH that has a swing-bed approval, is covered only if the beneficiary meets the requirements of this section and only for days when he or she needs and receives care of the level described in §409.31. **A beneficiary in an SNF is also considered to meet the level of care requirements of §409.31 up to and including the assessment reference date for the 5-day assessment prescribed in §413.343(b) of this chapter, when assigned to one of the Resource Utilization Groups that is designated (in the annual publication of Federal prospective payment rates described in §413.345 of this chapter) as representing the required level of care.** For the purposes of this section, the assessment reference date is defined in accordance with §483.315(d) of this chapter, and must occur no later than the eighth day of posthospital SNF care. [emphasis supplied]

42 C.F.R. §413.345:

§ 413.345 Publication of Federal prospective payment rates.

CMS publishes information pertaining to each update of the Federal payment rates in the Federal Register. This information includes the standardized Federal rates, the resident classification system that provides the basis for case-mix adjustment (including the designation of those specific Resource Utilization Groups under the resident classification system that represent the required SNF level of care, as provided in §409.30 of this chapter), and the wage index. This information is published before May 1 for the fiscal year 1998 and before August 1 for the fiscal years 1999 and after.

Reimbursement regulations

The final reimbursement rules in 2009 provide that **“beneficiaries who are correctly assigned to one of the upper 35 of the RUG-53 groups on the initial 5-day, Medicare-required assessment are automatically classified as meeting the SNF level of care definition up to and including the assessment reference date on the 5-day Medicare required assessment.”**

Here is the complete discussion from the preamble to the final reimbursement regulations published in August, 74 Federal Register 40281, at 40304 (Aug. 11, 2009):

5. Relationship of RUG-III Classification System to Existing Skilled Nursing Facility Level-of-Care Criteria

As discussed in Sec. 413.345, we include in each update of the Federal payment rates in the Federal Register the designation of those specific RUGs under the classification system that represent the required SNF level of care, as provided in Sec. 409.30. This designation reflects an administrative presumption under the refined RUG-53 system that beneficiaries who are correctly assigned to one of the upper 35 of the RUG-53 groups on the initial 5-day, Medicare-required assessment are automatically classified as meeting the SNF level of care definition up to and including the assessment reference date on the 5-day Medicare required assessment. A beneficiary assigned to any of the lower 18 groups is not automatically classified as either meeting or not meeting the definition, but instead receives an individual level of care determination using the existing administrative criteria. This presumption recognizes the strong likelihood that beneficiaries assigned to one of the upper 35 groups during the immediate post-hospital period require a covered level of care, which would be less likely for those beneficiaries assigned to one of the lower 18 groups. [emphasis supplied]

In this final rule, we are continuing the designation of the upper 35 groups for purposes of this administrative presumption, consisting of all groups encompassed by the following RUG-53 categories:

- Rehabilitation plus Extensive Services;
- Ultra High Rehabilitation;
- Very High Rehabilitation;
- High Rehabilitation;
- Medium Rehabilitation;
- Low Rehabilitation;
- Extensive Services;
- Special Care; and,
- Clinically Complex.

A discussion of the relationship of the proposed RUG-IV classification system to existing SNF level of care criteria appears in section III.C.4 of this final rule.

At page 40341 in the final August 2009 rules, CMS wrote about RUG-IV, which will expand the total number of RUG categories from 53 to 66 in fiscal year 2011. When RUG-IV is implemented, CMS will apply its administrative presumption (that Medicare will pay for the first five days of a Medicare beneficiary's stay in a SNF) to the upper 52 groups.

4. Relationship of RUG-IV Classification System to Existing Skilled Nursing Facility Level-of-Care Criteria

As discussed previously in section III.B.5 of this final rule, the existing level of care presumption currently applies to the upper 35 groups of the refined 53-group RUG-III model. In the FY 2010 proposed rule (74 FR 22208, 22238, May 12, 2009), we proposed that under the new 66-group RUG-IV model, this presumption would apply to the upper 52 groups, as encompassed by the following categories: Rehabilitation Plus Extensive Services; Ultra High Rehabilitation; Very High Rehabilitation; High Rehabilitation; Medium Rehabilitation; Low Rehabilitation; Extensive Services; Special Care High; Special Care Low; and, Clinically Complex. We received no comments on this proposal, and in this final rule, we are implementing this provision as proposed.

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