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JUDGE CERTIFIES NATIONWIDE CLASS OF MEDICARE BENEFICIARIES CHALLENGING NURSING HOME COVERAGE RULE

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On September 21, 2005, a federal judge in Bridgeport, Connecticut certified a nationwide class of Medicare beneficiaries who are challenging a Medicare coverage rule. Known as the “three-day hospital qualifying stay requirement”, the rule restricts coverage of skilled nursing facility (SNF) care only to patients whose three days or more of hospitalization were in formal admission status. The beneficiaries argue that time spent in the emergency room or on observation status prior to formal admission should count toward the three days, but the federal agency responsible for Medicare has consistently refused to budge on its strict interpretation.

“The result of this policy,” commented Gill Deford, who is lead counsel for the beneficiaries and an attorney with the Center for Medicare Advocacy, a non-partisan advocacy organization based in Connecticut and Washington, DC, “is that thousands of people annually don’t get SNF coverage even though the care they got in the hospital ER or on observation status in the hospital was essentially the same care they got when they were formally admitted.” He added, “Certification of the nationwide class will mean that, if they win, Medicare beneficiaries around the country will get SNF coverage regardless of their status while in the hospital. It’s the only fair way to do it, especially since the average time spent in hospitals has been cut in half in the forty years since Medicare began.”

The plaintiffs and federal government will soon submit their written arguments on the merits of the beneficiaries’ claim. A decision on the case, known as *Landers v. Leavitt*, could come by early 2006.