

## Medicare Coverage In Light of *Jimmo v. Sebelius* For Providers, Contractors, and Adjudicators

### Beneficiaries do not have to improve to qualify for Medicare coverage!

On January 24, 2013, a U.S. District Court approved the settlement agreement in [\*Jimmo v. Sebelius\*, No. 5:11-CV-17 \(D. VT\)](#). As a result of the *Jimmo* Settlement, the Centers for Medicare & Medicaid Services (CMS) was required to confirm that Medicare coverage is determined by a beneficiary's need for skilled care, **not** on a beneficiary's potential for improvement. Medicare policy now clearly states that coverage "does not turn on the presence or absence of a beneficiary's potential for improvement, but rather on the beneficiary's need for skilled care. Skilled care may be necessary to improve a patient's condition, to maintain a patient's current condition, or to prevent or slow further deterioration of the patient's condition." ([CMS Transmittal 179, Pub 100-02, 1/14/2014](#)).

The *Jimmo* Settlement means that Medicare beneficiaries should not be denied coverage for maintenance nursing or therapy provided by a skilled nursing facility, home health agency, or outpatient therapy provider when skilled personnel must provide or supervise the care for it to be safe and effective. Medicare-covered skilled services include care that improves, maintains, or slows the decline of a patient's condition. Medicare coverage should not be denied solely because an individual has an underlying condition that won't get better, such as MS, ALS, Parkinson's disease, or paralysis.

Unfortunately, the Center for Medicare Advocacy still hears from beneficiaries and their families about coverage denials for skilled care based on some variation of an "Improvement Standard." Such unlawful denials may be the result of a misunderstanding among providers, contractors, and adjudicators. According to the Center's [2018 national survey](#) of providers, 40% of respondents had not heard about the *Jimmo* Settlement and 30% of respondents were not aware that Medicare coverage does not depend on a beneficiary's potential for improvement.

The *Jimmo* Settlement required CMS to conduct a nationwide Educational Campaign to inform providers, contractors, and adjudicators about the correct maintenance coverage standards. In 2017, the *Jimmo* Court found that CMS had not properly carried out the campaign and ordered CMS to undertake additional measures to properly implement the *Jimmo* Settlement. The materials below are the result of CMS's efforts to comply with the *Jimmo* Settlement and the [Corrective Action Plan](#). **These materials were written by CMS and represent official Medicare policy.** The Center encourages providers, contractors, and adjudicators who may be unfamiliar with the *Jimmo* Settlement to read and use these materials to help them implement the correct standards.

CMS's  
[Jimmo Homepage](#)

CMS's Frequently  
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