



NY Residential Health Care Facilities Must Revise and Re-Issue Notices of Bed Hold Policies

Amendments in the recently enacted NYS Budget legislation reduce the number of reserved bed days for residents on therapeutic leave and end Medicaid payment for bed holds for temporarily hospitalized residents and for residents on non-therapeutic leave.

The recently enacted New York State budget legislation has amended the Public Health Law to significantly change the circumstances under which Medicaid will pay a residential health care facility (“RHCF”) for holding a bed for a Medicaid resident. Previously, if a resident 21 years of age or older were temporarily hospitalized, Medicaid would pay the RHCF 50% of the Medicaid rate otherwise payable for services provided to that resident for up to 14 days within any 12-month period. For a resident on a therapeutic or other leave of absence, Medicaid would pay the RHCF 95% of the Medicaid rate otherwise payable for services provided to that resident for up to 14 days within any 12-month period for therapeutic leave and up to 10 days for any other leave of absence. Medicaid would not, however, pay for reserved bed days beyond a total of 14 days in any 12-month period in the aggregate.

According to the budget legislation, effective as of April 1, 2017, Medicaid will no longer pay RHCFs for a bed reserved for a temporarily hospitalized resident or for a resident on a leave that is not a therapeutic leave. A definition of “therapeutic leave” is not provided, but the current regulations and the NYS Medicaid State Plan suggest that such leave is limited in purpose, i.e., to allow for the resident to make visits, consistent with the resident’s plan of care, to health care professionals that would improve the resident’s condition or quality of life. The rate paid to a RHCF reserving a bed to a resident on therapeutic leave remains at 95% of the Medicaid rate, but Medicaid now will not pay for more than 10 days in any 12-month period. Other requirements that a RHCF must meet to receive Medicaid payment for reserved bed days remain in place, although further guidance from the Department of Health is expected.

Federal regulations require a RHCF’s notice of bed hold policy to conform to State requirements, which will require a reissuance of a notice of bed hold policy, revised accordingly, to the RHCF’s residents. To be in compliance with other regulations, a RHCF operator also should ensure that residents understand the differences between the RHCF’s bed hold policy and its readmission policy.

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