

Supporting Statement – Part A

Physician Certification/Recertifications in Skilled Nursing Facilities (SNFs) Manual Instructions and Supporting Regulation in 42 CFR 424.20 CMS-R-5

A. Background

The Medicare program requires, as a condition for Medicare Part A payment for posthospital skilled nursing facility (SNF) services that a physician must certify and periodically recertify that a beneficiary requires an SNF level of care. The physician certification and recertification is intended to ensure that the beneficiary's need for services has been established and then reviewed and updated at appropriate intervals. The documentation is a condition for Medicare Part A payment for post-hospital SNF care.

B. Justification

1. Need and Legal Basis

Section 1814(a) of the Social Security Act (the Act) requires specific certifications in order for Medicare payments to be made for certain services. Before the enactment of the Omnibus Budget Reconciliation Act of 1989 (OBRA '89) (Public Law 101-239), section 1814(a)(2) of the Act required that, in the case of posthospital extended care services, a physician certify that the services are or were required to be given because the individual needs or needed, on a daily basis, skilled nursing care (provided directly by or requiring the supervision of skilled nursing personnel) or other skilled rehabilitation services that, as a practical matter, can only be provided in a skilled nursing facility (SNF) on an inpatient basis.

The physician certification requirements were included in the law to ensure that patients require a level of care that is covered by the Medicare program and because the physician is a key figure in determining the utilization of health services.

A final rule with comment period was published in the Federal Register on July 26, 1995 (60 FR 38266), which authorized nurse practitioners and clinical nurse specialists, working in collaboration with a physician, to certify and recertify that extended care services are needed or continue to be needed. In addition, it set forth qualification requirements that a nurse practitioner or clinical nurse specialist must meet in order to sign certification or recertification

statements (these requirements were later revised in the Balanced Budget Act of 1997). This final rule was necessary to implement section 6028 of OBRA '89.

The requirements at 42 CFR 424.20(a) and (b) concern the initial physician certification of a beneficiary's need for a SNF level of care, which must be made upon admission or as soon as possible thereafter. The requirements at 42 CFR 424.20(c) and (d) concern physicians recertification of a beneficiary's need for continued SNF level of care, and also require an estimate of the time the individual will need to remain in the SNF, plans for home treatment, and whether the need is for a condition that occurred after transfer to the SNF and while still receiving treatment in the SNF for a prior condition for which he or she was hospitalized. These sections require a physician to recertify at specific intervals (the initial recertification must occur no later than the 14th day of SNF care, with subsequent recertification at least every 30 days thereafter) that posthospital SNF care is or was required because the individual needs or needed skilled care on a daily basis.

Section 220 in the Skilled Nursing Facility Manual (CMS Pub. 12) provides more detailed instructions regarding physician certification and recertification of covered posthospital extended care services for a Medicare beneficiary. Additionally, the following CMS Internet-Only Manuals provide additional instructions: chapter 4, sections 40 and 80 in the Medicare General Information, Eligibility, and Entitlement Manual (CMS Pub. 100-01), and chapter 6, section 6.3 in the Medicare Program Integrity Manual (CMS Pub. 100-06).

2. Information Users

The physician certification and recertification documentation is used by physicians attending to Medicare patients in an SNF only on an "as needed" basis. Medical or other personnel employed by the SNF can review the said documentation only on an "as needed" basis.

3. Use of Information Technology

The information being certified and recertified varies with each individual and requires signature. Therefore, it does not lend itself to automation.

4. Duplication of Efforts

There is no duplication of information or similar information being collected.

5. Small Businesses

There is no requirement for a specific procedure or form as long as the approach permits verification that the certification and recertification requirement is met.

6. Less Frequent Collection

CMS does not collect this data. The record keeping involving "recertification" is on an "as-needed" basis.

7. Special Circumstances

There are no special circumstances.

8. Federal Register Notice/Outside Consultations

The 60-day Federal Register notice published on March 20, 2009, one comment was received.

9. Payments/Gifts to Respondents

No payments or gifts are made to respondents.

10. Confidentiality

CMS does not collect the recertifications and does not provide assurance of confidentiality.

11. Sensitive Questions

Not applicable.

12. Burden Estimates (Hours & Wages)

The requirements at 42 CFR 424.20(a) and (c) address the content of the initial certification and subsequent recertification statements for posthospital SNF care. A physician must initially certify the need for services, and subsequently recertify the continued need for services, explain why the services are still needed, give an estimate of how long the person will need to remain in the facility, and include plans for home care, if appropriate.

We estimate the physician spends 5 minutes for the initial certification and 10 minutes for each recertification in completing this information, either in the patient's record/progress notes or by filling in the spaces of the check blocks on the facility's preprinted form. The first recertification is required no later than the 14th day of posthospital SNF care. Subsequent recertifications are required at least once every 30 days thereafter.

Claims data for calendar year 2007 (the most recent available) was utilized to show SNF stays as follows: there were 966,353 persons whose total length of stay

per covered admission was less than 14 days; 1,125,118 had stays of 14 - 43 covered days; 320,761 had stays of 44 - 73 covered days; and 154,297 had stays of 74 – 100 covered days. The first group would require only an initial certification; the second, a certification and one recertification; the third, a certification and two recertifications; and the fourth, a certification and three recertifications. There is a total of 2,566,528 certifications and recertifications.

We estimate the number of hours for each is 80,529 (1/12 of an hour, or 966,353 divided by 12); 281,280 (1/4 of an hour, or 1,125,118 divided by 4); 133,650 (5/12 of an hour, or 320,760 multiplied by 5/12); and 90,007 (7/12 of an hour, or 154,297 multiplied by 7/12), for a total of 585,466 hours. The total number of respondents is 2,566,528.

We estimate \$5,854,660 as the cost to the SNFs pertaining to physician certification and recertification. It is calculated at the standard rate of \$10 per hour multiplied by the total hours, 585,466 hours = \$5,854,660.

13. Capital Costs

There is no expense for any capital and start-up costs since these documentations are entered by hand in the patient's medical records. There are no additional costs involved in maintaining or disclosing this information.

14. Cost to Federal Government

We estimate no Federal costs associated with this information collection requirement.

15. Changes to Burden

The change in burden is due to an increase in number of responses. In past collections, the estimated annual number of responses counted for persons with a certification only. In other words, persons who had a stay of 0 to 13 days were represented. This collection includes the number of responses for certifications and recertifications.

16. Publication and Tabulation Data

There will be no publication and tabulation dates.

17. Expiration Date

This collection does not lend itself to the displaying of an expiration date. We are seeking a three-year extension date.

18. Certification Statement

There are no certification exceptions.