

Comment: A commenter opposed the need for physician certification and recertification stating that it is a “useless paper compliance regulation” and should be “eliminated.” The commenter included references to several sections of Pub. 100-01, Medicare General Information, Eligibility, and Entitlement (MGIEE) manual, Chapter 4, with comments such as:

- “One would assume that the intermediary can determine the need for skilled services without a separately signed certification from the physician” for section 40,
- section 40.4, negates the “entire regulation,”
- section 40.5 allows facilities to “easily rectify a missed certification,” and
- section 40.6 contradicts section 40.

Response: It is our policy that, in order for payment for covered posthospital extended care services, the required certification and recertification should be completed and signed by a physician or others as described in Chapter 8 of the Medicare Benefit Policy manual, as well as, Chapter 4 of the MGIEE manual. Although certification and recertifications are not bound to a specific form, they are, however, statutorily required as stated in §1814(a)(2)(B) of the Social Security Act (the Act). With this said, we would hope that the certification and recertification process would be a true indication that patient needs are, indeed, being reviewed. In any event, this policy directly reflects the requirements of the above-cited provision of the law. Accordingly, any action to eliminate it cannot be accomplished administratively, but instead would require legislation by the Congress to amend the law itself.

Although section 40.4, “Timing of Recertifications for Extended Care Services,” allows for alternative procedures for recertification at the option of the skilled nursing facility, it must be noted that written documentation of said procedures must be on file. Moreover, under the regulations at 42 CFR 424.20(f), these alternative procedures are available only if the SNF maintains a duly-constituted utilization review committee as specified in §1861(k) of the Act.

Delayed certification and recertification statements, as indicated in § 40.5, are allowed only for those isolated oversight or lapsed circumstances. We understand that these special situations may occur. However, these statements must include an explanation and any evidence relevant to the delay for verification purposes. Once again, the policy on delayed statements directly reflects the provisions of the law itself, at §1814(a) following (8) of the Act.

We wish to clarify that it is not the responsibility of the skilled nursing facility itself to certify the need for extended care services. Instead, section 40.6 requires facilities to certify or confirm, in the admission and billing form, that the required certification and recertification statements have been obtained and are on file. The intermediary, at any time, may request these statements for verification.