

**9505.0415 LONG-TERM CARE FACILITIES; LEAVE DAYS.**

Subpart 1. **Definitions.** For the purpose of this part, the following terms have the meanings given them.

A. "Certified bed" means a bed certified under title XIX of the Social Security Act.

B. "Discharge" or "discharged" refers to the status of a recipient as defined in part 9549.0051, subpart 7, as published in the State Register, December 1, 1986, volume 11, number 22.

C. "Hospital leave" means the status of a recipient who has been transferred from the long-term care facility to an inpatient hospital for medically necessary health care, with the expectation the recipient will return to the long-term care facility.

D. "Leave day" means any calendar day during which the recipient leaves the facility and is absent overnight, and all subsequent, consecutive calendar days. An overnight absence from the facility of less than 23 hours does not constitute a leave day. Nevertheless, if the recipient is absent from the facility to participate in active programming of the facility under the personal direction and observation of facility staff, the day shall not be considered a leave day regardless of the number of hours of the recipient's absence. For purposes of this item, "calendar day" means the 24 hour period ending at midnight.

E. "Reserved bed" means the same bed that a recipient occupied before leaving the facility for hospital leave or therapeutic leave or an appropriately certified bed if the recipient's physical condition upon returning to the facility prohibits access to the bed he or she occupied before the leave.

F. "Therapeutic leave" means the absence of a recipient from a long-term care facility, with the expectation of the recipient's return to the facility, to a camp meeting applicable licensure requirements of the Minnesota Department of Health, a residential setting other than a long-term care facility, a hospital, or other entity eligible to receive federal, state, or county funds to maintain a recipient. Leave for a home visit or a vacation is a therapeutic leave.

Subp. 2. **Payment for leave days.** A leave day is eligible for payment under medical assistance, subject to the limitations of this part. The leave day must be for hospital leave or therapeutic leave of a recipient who has not been discharged from the long-term care facility. A reserved bed must be held for a recipient on hospital leave or therapeutic leave.

Subp. 3. **Hospital leave.** A hospital leave for which a leave day is claimed must comply with the conditions in items A to C if the leave day is to be eligible for medical assistance payment.

A. The recipient must have been transferred from the long-term care facility to a hospital.

B. The recipient's health record must document the date the recipient was transferred to the hospital and the date the recipient returned to the long-term care facility.

C. The leave days must be reported on the invoice submitted by the long-term care facility.

Subp. 4. **Therapeutic leave.** A therapeutic leave for which a leave day is claimed must comply with the conditions in items A and B if the leave day is to be eligible for payment under medical assistance.

A. The recipient's health care record must document the date and the time the recipient leaves the long-term care facility and the date and the time of return.

B. The leave days must be reported on the invoice submitted by the long-term care facility.

Subp. 5. **Payment limitations on number of leave days for hospital leave.** Payment for leave days for hospital leave is limited to 18 consecutive days for each separate and distinct episode of medically necessary hospitalization. For the purpose of this part "separate and distinct episode" means:

A. the occurrence of a health condition that is an emergency;

B. the occurrence of a health condition which requires inpatient hospital services but is not related to a condition which required previous hospitalization and was not evident at the time of discharge; or

C. the repeat occurrence of a health condition that is not an emergency but requires inpatient hospitalization at least two calendar days after the recipient's most recent discharge from a hospital.

Subp. 6. **Payment limitations on number of leave days for therapeutic leave.** Payment for leave days for therapeutic leave is limited to the number of days as in items A to D:

A. recipients receiving skilled nursing facility services as provided in part 9505.0420, subpart 2, 36 leave days per calendar year;

B. recipients receiving intermediate care facility services as provided in part 9505.0420, subpart 3, 36 leave days per calendar year;

C. recipients receiving intermediate care facility, developmentally disabled services as provided in part 9505.0420, subpart 4, 72 leave days per calendar year. In addition to the number of leave days specified in this item, the commissioner may approve up to 48 additional therapeutic leave days per calendar year for family activities if:

(1) the recipient or recipient's legal representative requests additional therapeutic leave days;

(2) the case manager recommends that the leave is consistent with the goals of the recipient's individual service plan as defined in Minnesota Statutes, section 256B.092, subdivision 1b;

(3) an evaluation by the case manager shows that home and community-based services and other alternative services are not feasible; and

(4) all other state and federal requirements relating to therapeutic leave days are met;

D. recipients residing in a long-term care facility that has a license to provide services for persons with physical disabilities as provided in parts 9570.2000 to 9570.3400, 72 leave days per calendar year.

Subp. 7. **Payment limitation on billing for leave days.** Payment for leave days for hospital leave and therapeutic leave shall be subject to the limitation as in items A to C. For purposes of this subpart, a reserved bed is not a vacant bed when determining occupancy rates and eligibility for payment of a leave day.

A. Long-term care facilities with 25 or more licensed beds shall not receive payment for leave days in a month for which the average occupancy rate of licensed beds is 93 percent or less.

B. Long-term care facilities with 24 or fewer licensed beds shall not receive payment for leave days if a licensed bed has been vacant for 60 consecutive days prior to the first leave day of a hospital leave or therapeutic leave.

C. The long-term care facility charge for a leave day for a recipient must not exceed the charge for a leave day for a private paying resident. "Private paying resident" has the meaning given in Minnesota Statutes, section 256B.441, subdivision 32.

**Statutory Authority:** *MS s 256B.04*

**History:** *12 SR 624; 19 SR 1227; L 2005 c 56 s 2; L 2014 c 262 art 5 s 6*

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