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## **MMA - Revisions Relating to Rural Health Clinic (RHC) and Federally Qualified Health Center (FQHC) Services Provided in a Skilled Nursing Facility (SNF) and Certification/Recertification of the Need for a Skilled Level of Care**

**Note:** This article was updated on February 16, 2013, to reflect current Web addresses. All other information remains unchanged.

### **Provider Types Affected**

Physicians, nurse practitioners, clinical nurse specialists, RHCs, FQHCs, and SNFs billing Medicare carriers and fiscal intermediaries (FIs) for services supplied to SNF patients

### **Provider Action Needed**



#### **STOP – Impact to You**

This article is based on Change Request (CR) 4079, which includes revisions relating to Rural Health Clinic (RHC) and Federally Qualified Health Center (FQHC) services provided in a Skilled Nursing Facility (SNF) and Physician Certification/Recertification of the need for a skilled level of care.

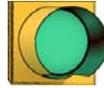


#### **CAUTION – What You Need to Know**

Effective January 1, 2005, certain RHC/FQHC services furnished by a physician to a Medicare patient who is in a covered Part A stay in a SNF may not be subject to SNF consolidated billing merely by virtue of being furnished under the RHC/FQHC auspices. The definition of an “indirect employment relationship” as that term relates to the certification and recertification of the need for a skilled level of care included in the SNF PPS Final Rule for FY 2006 is effective for services provided on and after October 1, 2005.

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### GO – What You Need to Do

See the *Background* and *Additional Information* sections of this article for further details regarding these revisions.

## Background

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Effective January 1, 2005, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA), Section 410, amended the Skilled Nursing Facility (SNF) consolidated billing law to specify that certain Rural Health Clinic (RHC) and Federally Qualified Health Center (FQHC) services are excluded from the SNF Prospective Payment System (PPS) and the requirement for consolidated billing.

On August 5, 2005, the Centers for Medicare & Medicaid Services (CMS) published the FY 2006 SNF PPS Final Rule (see [http://www.access.gpo.gov/su\\_docs/fedreg/a050805c.html](http://www.access.gpo.gov/su_docs/fedreg/a050805c.html)), which included a definition of an "indirect employment relationship" for purposes of the certification and recertification by physicians, nurse practitioners and clinical nurse specialists of the need for a skilled level of care. Appropriate revisions to the *Medicare Benefit Policy Manual* (Pub. 100-02) have been made to reflect these changes.

### ***Rural Health Clinic (RHC) and Federally Qualified Health Center (FQHC) Services for Skilled Nursing Facility (SNF) Outpatients or Inpatients***

Prior to January 1, 2005, services furnished by an RHC/FQHC's physician and non-physician practitioners were generally considered to be "RHC/FQHC" services and were included within the SNF's PPS per diem payment when furnished to a Part A resident.

However, under limited circumstances, these services were considered to be practitioner services that were excluded from SNF consolidated billing and separately billable to Part B.

See the *Medicare Benefit Policy Manual*, Chapter 13 (Rural Health Clinic (RHC)), and Federally Qualified Health Center (FQHC) Services, Section 50.4.2B. This manual is available at <http://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Internet-Only-Manuals-IOMs.html> on the CMS website.

Specifically, visits to SNF residents by an RHC/FQHC's physicians and other excluded types of medical practitioners could be separately billed to the Medicare Part B carrier in those situations where the services were furnished off the RHC's

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premises and the RHC did not compensate the practitioner for them. In other words, as long as the practitioner was not under agreement with the RHC to provide services at the SNF, the practitioner could bill the Part B carrier directly for those services under his or her own Medicare provider number.

Effective with services furnished on or after January 1, 2005, the MMA (Section 410) amended the law to specify that when an SNF Part A resident receives the services of a physician from an RHC or FOHC, then those services are not subject to consolidated billing merely by virtue of being furnished under the auspices of the RHC or FOHC. This exclusion also applies to any other type of practitioner that the law identifies as being excluded from SNF consolidated billing.

Accordingly, under the MMA (Section 410), services otherwise included within the scope of RHC and FOHC services that are also described in the Social Security Act (Section 1888(e)(2)(A)(ii)) are excluded from consolidated billing, effective with services furnished on or after January 1, 2005. Only this subset of RHC/FOHC services may be covered and paid separately when furnished to SNF residents during a covered Part A stay.

### ***Who May Sign the Certification or Recertification for Extended Care Services?***

Payment for covered post-hospital extended care services may be made only if a physician (or one of the other authorized types of practitioners described below) makes the required certification and, where services are furnished over a period of time, the required recertification regarding the services furnished.

The skilled nursing facility is responsible for obtaining the required certification and recertification statements and for retaining them in a file for verifications, if needed, by the intermediary.

A certification or recertification statement must be signed by:

- The attending physician or a physician on the staff of the SNF who has knowledge of the case; or
- A nurse practitioner (NP) or clinical nurse specialist (CNS) who does not have a direct or indirect employment relationship with the facility, but who is working in collaboration with the physician.

In this context, the definition of a "direct employment relationship" is set forth in the Code of Federal Regulations (CFR).

(Go to <http://www.gpoaccess.gov/cfr/retrieve.html>. See 20 CFR 404.1005, 404.1007, and 404.1009.)

Under the CFR (42 CFR 424.20(e)(2)(ii)) an "indirect employment relationship" exists between the NP or CNS and the facility when:

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- The NP or CNS has a direct employment relationship with an entity other than the facility; and
- The employing entity has an agreement with the facility that includes the provision of general nursing services under the regulations (42 CFR 409.21).

By contrast, such an indirect employment relationship does not exist if the agreement between the facility and the NP's or CNS's employer solely involves the performance of delegated physician tasks under the regulations (42 CFR 483.40(e)).

Ordinarily, for purposes of certification and recertification, a "physician" must meet the definition contained in the *Medicare Benefit Policy Manual* (Pub. 100-02), Chapter 5, Section 70. Instruction is February 16, 2006.

### Additional Information

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For a more complete description of SNF PPS provisions, see the *Medicare Claims Processing Manual* (Pub. 100-04), Chapter 6 (SNF Inpatient Billing). This manual is available at <http://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Internet-Only-Manuals-IOMs.html> on the CMS website.

For complete details, please see the official instruction (CR4079) issued to your carrier/intermediary regarding this change. This instruction included the revised portions of the Medicare Benefit Policy Manual affected by these changes. That instruction may be viewed at <http://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/downloads/R40BP.pdf> on the CMS website.

If you have any questions, please contact your carrier/intermediary at their toll-free number, which may be found at <http://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/provider-compliance-interactive-map/index.html> on the CMS website.

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