
CMS Manual System

Pub. 100-07 State Operations Provider Certification

Department of Health &
Human Services (DHHS)
Centers for Medicare &
Medicaid Services (CMS)

Transmittal 97

Date: December 13, 2013

SUBJECT: State Operations Manual (SOM) Chapter 7, Revisions for Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID)

I. SUMMARY OF CHANGES: The SOM Chapter 7 will be revised to reflect the current ICF/IID nomenclature.

NEW/REVISED MATERIAL - EFFECTIVE DATE: December 13, 2013
IMPLEMENTATION DATE: December 13, 2013

Disclaimer for manual changes only: The revision date and transmittal number apply to the red italicized material only. Any other material was previously published and remains unchanged. However, if this revision contains a table of contents, you will receive the new/revised information only, and not the entire table of contents.

II. CHANGES IN MANUAL INSTRUCTIONS: (N/A if manual not updated.)
(R = REVISED, N = NEW, D = DELETED) – (Only One Per Row.)

R/N/D	CHAPTER/SECTION/SUBSECTION/TITLE
R	7/7014.1.1/Waiver of 7-Day Registered Nurse (RN) Requirement for Skilled Nursing Facilities
R	7/7014.1.2/Waivers of Nurse Staffing Requirements in Nursing Facilities
R	7/7200/Emphasis Components and Applicability

III. FUNDING: No additional funding will be provided by CMS; contractor activities are to be carried out within their operating budgets.

IV. ATTACHMENTS:

	Business Requirements
X	Manual Instruction
	Confidential Requirements
	One-Time Notification
	One-Time Notification -Confidential
	Recurring Update Notification

***Unless otherwise specified, the effective date is the date of service.**

7014.1.1 - Waiver of 7-Day Registered Nurse (RN) Requirement for Skilled Nursing Facilities

(Rev. 97, Issued, 12-13-13, Effective: 12-13-13, Implementation: 12-13-13)

The requirements for long-term care facilities require that a skilled nursing facility provide 24-hour licensed nursing services, an RN for 8 consecutive hours a day, 7 days a week (more than 40 hours a week), and that there be an RN designated as Director of Nursing on a full time basis. The regional office, acting on behalf of the Secretary, may waive the requirement in the following circumstances:

- The facility is located in a rural area and the supply of skilled nursing facility services is not sufficient to meet area needs;
- The facility has one full-time registered nurse regularly on duty 40 hours a week. This may be the same individual or part-time individuals. This nurse may or may not be the Director of Nursing and may perform some Director of Nursing and some clinical duties if the facility so desires; and either;
- The facility has residents whose physicians have indicated, through admission notes or physicians' orders, that the residents do not need RN or physician care for a 48 hour period; or
- A physician or RN will spend the necessary time at the facility to provide the care that residents need during the days that an RN is not on duty. This requirement refers to clinical care of the residents who need skilled nursing services.

If a waiver is granted, the regional office, acting on behalf of the Secretary, must provide notice of the waiver to the State long-term care ombudsman and to the State protection and advocacy system for the mentally ill and *intellectually disabled*. The facility granted such a waiver must notify residents of the facility (or responsible guardians) and members of their immediate families of the waiver.

A waiver of the RN requirement is subject to annual renewal by the Secretary.

7014.1.2 - Waivers of Nurse Staffing Requirements in Nursing Facilities

(Rev. 97, Issued, 12-13-13, Effective: 12-13-13, Implementation: 12-13-13)

The requirements for long-term care facilities also require that nursing facilities provide 24-hour licensed nursing, provide an RN for 8 consecutive hours a day, 7 days a week, and that there be an RN designated as Director of Nursing on a full-time basis. The State may waive these requirements if the following conditions are met:

- The facility demonstrates to the satisfaction of the State that it has made diligent efforts to recruit the appropriate personnel and is unable to do so;

- The State determines that a waiver will not endanger the health or safety of the residents in the facility; and
- The State finds that an RN or physician is obligated to respond immediately to phone calls from the facility for periods when licensed nursing services are not available.

The State may grant a waiver from the 24-hour licensed nursing requirement; the 8 consecutive hours a day, 7 days a week requirement, or both. A facility may be waived from the requirement to designate a Director of Nursing if it has been waived from either the requirement to provide 24-hour licensed nursing services or the 8 consecutive hours a day, 7 days a week requirement.

If a waiver is granted, the State must provide notice of the waiver to the State long-term care ombudsman and to the State protection and advocacy system for the mentally ill and *intellectually disabled*. The facility granted the waiver must notify residents of the facility (or responsible guardians) and members of their immediate families of the waiver.

Survey Process

7200 -Emphasis, Components, and Applicability

(Rev. 97, Issued, 12-13-13, Effective: 12-13-13, Implementation: 12-13-13)

Skilled nursing facilities and nursing facilities must be in compliance with the requirements in [42 CFR Part 483, Subpart B](#) to receive payment under Medicare or Medicaid. To certify a skilled nursing facility or nursing facility, complete at least:

- A life safety code survey; and
- A standard survey (Forms [CMS-670, 671, 672, 677, 801 through 807](#), and [Exhibits 85, 86, 88 to 95](#)).

Follow the procedures in [Appendix P](#) of this manual for conducting all surveys of skilled nursing facilities and nursing facilities, whether freestanding, distinct parts, or dually participating. Do not use these procedures for surveys of intermediate care facilities for *individuals with intellectual disabilities (ICFs/IID)*, swing-bed hospitals, or skilled nursing sections of hospitals that are not separately certified as skilled nursing facility distinct parts.