

**§ 409.68**

**§ 409.68 Guarantee of payment for inpatient hospital or inpatient CAH services furnished before notification of exhaustion of benefits.**

(a) *Conditions for payment.* Payment may be made for inpatient hospital or inpatient CAH services furnished a beneficiary after he or she has exhausted the available benefit days if the following conditions are met:

(1) The services were furnished before CMS or the intermediary notified the hospital or CAH that the beneficiary had exhausted the available benefit days and was not entitled to have payment made for those services.

(2) At the time the hospital or CAH furnished the services, it was unaware that the beneficiary had exhausted the available benefit days and could reasonably have assumed that he or she was entitled to have payment made for these services.

(3) Payment would be precluded solely because the beneficiary has no benefit days available for the particular hospital or CAH stay.

(4) The hospital or CAH claims reimbursement for the services and refunds any payments made for those services by the beneficiary or by another person on his or her behalf.

(b) *Limitations on payment.* (1) If all of the conditions in paragraph (a) of this section are met, Medicare payment may be made for the day of admission, and up to 6 weekdays thereafter, plus any intervening Saturdays, Sundays, and Federal holidays.

(2) Payment may not be made under this section for any day after the hospital or CAH is notified that the beneficiary has exhausted the available benefit days.

(c) *Recovery from the beneficiary.* Any payment made to a hospital or CAH under this section is considered an overpayment to the beneficiary and may be recovered from him or her under the provisions set forth elsewhere in this chapter.

[48 FR 12541, Mar. 25, 1983, as amended at 50 FR 33033, Aug. 16, 1985; 58 FR 30666, May 26, 1993]

**42 CFR Ch. IV (10-1-02 Edition)**

**Subpart G—Hospital Insurance Deductibles and Coinsurance**

**§ 409.80 Inpatient deductible and coinsurance: General provisions.**

(a) *What they are.* (1) The inpatient deductible and coinsurance amounts are portions of the cost of covered hospital or CAH or SNF services that Medicare does not pay.

(2) The hospital or CAH or SNF may charge these amounts to the beneficiary or someone on his or her behalf.

(b) *Changes in the inpatient deductible and coinsurance amounts.* (1) The law requires the Secretary to adjust the inpatient hospital deductible each year to reflect changes in the average cost of hospital care. In adjusting the deductible, the Secretary must use a formula specified in section 1813(b)(2) of the Act. Under that formula, the inpatient hospital deductible is increased each year by about the same percentage as the increase in the average Medicare daily hospital costs. The result of the deductible increase is that the beneficiary continues to pay about the same proportion of the hospital bill.

(2) Since the coinsurance amounts are, by statute, specific fractions of the deductible, they change when the deductible changes.

[48 FR 12541, Mar. 25, 1983, as amended at 58 FR 30666, May 26, 1993]

**§ 409.82 Inpatient hospital deductible.**

(a) *General provisions*—(1) The inpatient hospital deductible is a fixed amount chargeable to the beneficiary when he or she receives covered services in a hospital or a CAH for the first time in a benefit period.

(2) Although the beneficiary may be hospitalized several times during a benefit period, the deductible is charged only once during that period. If the beneficiary begins more than one benefit period in the same year, a deductible is charged for each of those periods.

(3) For services furnished before January 1, 1982, the applicable deductible is the one in effect when the benefit period began.

(4) For services furnished after December 31, 1981, the applicable deductible is the one in effect during the calendar year in which the services were furnished.

(b) *Specific deductible amounts.* The specific deductible amounts for each calendar year are published in the FEDERAL REGISTER no later than October 1 of the preceding year.

(c) *Exception to published amounts.* If the total hospital or CAH charge is less than the deductible amount applicable for the calendar year in which the services were furnished, the amount of the charge is the deductible for the year.

[48 FR 12541, Mar. 25, 1983, as amended at 54 FR 4026, Jan. 27, 1989; 58 FR 30666, 30667, May 26, 1993]

#### § 409.83 Inpatient hospital coinsurance.

(a) *General provisions*—(1) Inpatient hospital coinsurance is the amount chargeable to a beneficiary for each day after the first 60 days of inpatient hospital care or inpatient CAH care or both in a benefit period.

(2) For each day from the 61st to the 90th day, the coinsurance amount is  $\frac{1}{4}$  of the applicable deductible.

(3) For each day from the 91st to the 150th day (lifetime reserve days), the coinsurance amount is  $\frac{1}{2}$  of the applicable deductible.

(4) For coinsurance days before January 1, 1982, the coinsurance amount is based on the deductible applicable for the calendar year in which the benefit period began. The coinsurance amounts do not change during a beneficiary's benefit period even though the coinsurance days may fall in a subsequent year for which a higher deductible amount has been determined.

(5) For coinsurance days after December 31, 1981, the coinsurance amount is based on the deductible applicable for the calendar year in which the services were furnished. For example, if an individual starts a benefit period by being admitted to a hospital in 1981 and remains in the hospital long enough to use coinsurance days in 1982, the coinsurance amount charged for those days is based on the 1982 inpatient hospital deductible.

(b) *Specific coinsurance amounts.* The specific coinsurance amounts for each

calendar year are published in the FEDERAL REGISTER no later than October 1 of the preceding year.

(c) *Exceptions to published amounts.* (1) If the actual charge to the patient for the 61st through the 90th day of inpatient hospital or inpatient CAH services is less than the coinsurance amount applicable for the calendar year in which the services were furnished, the actual charge per day is the daily coinsurance amount.

(2) If the actual charge to the patient for the 91st through the 150th day (lifetime reserve days) is less than the coinsurance amount applicable for the calendar year in which the services were furnished, the beneficiary is deemed to have elected not to use the days because he or she would not benefit from using them.

[48 FR 12541, Mar. 25, 1983, as amended at 54 FR 4026, Jan. 27, 1989; 58 FR 30666, 30667, May 26, 1993]

#### § 409.85 Skilled nursing facility (SNF) care coinsurance.

(a) *General provisions.* (1) SNF care coinsurance is the amount chargeable to a beneficiary after the first 20 days of SNF care in a benefit period.

(2) For each day from the 21st through the 100th day, the coinsurance is  $\frac{1}{8}$  of the applicable inpatient hospital deductible.

(3) For coinsurance days before January 1, 1982, the coinsurance amount is based on the deductible applicable for the year in which the benefit period began. The coinsurance amounts do not change during a beneficiary's benefit period even though the coinsurance days may fall in a subsequent year for which a higher deductible amount has been determined.

(4) For coinsurance days after December 31, 1981, the coinsurance amount is based on the deductible applicable for the calendar year in which the services were furnished.

(b) *Specific coinsurance amounts.* The specific SNF coinsurance amounts for each calendar year are published in the FEDERAL REGISTER no later than October 1 of the preceding year.

(c) *Exception to published amounts.* If the actual charge to the patient is less than the coinsurance amount applicable for the calendar year in which the