

**§ 403.700**

**42 CFR Ch. IV (10–1–07 Edition)**

**§ 403.700 Basis and purpose.**

This subpart implements sections 1821; 1861(e), (y), and (ss); 1869; and 1878 of the Act regarding Medicare payment for inpatient hospital or posthospital extended care services furnished to eligible beneficiaries in religious nonmedical health care institutions.

**§ 403.702 Definitions and terms.**

For purposes of this subpart, the following definitions and terms apply:

*Election* means a written statement signed by the beneficiary or the beneficiary's legal representative indicating the beneficiary's choice to receive nonmedical care or treatment for religious reasons.

*Excepted medical care* means medical care that is received involuntarily or required under Federal, State, or local laws.

*FFY* stands for Federal fiscal year.

*Medical care or treatment* means health care furnished by or under the direction of a licensed physician that can involve diagnosing, treating, or preventing disease and other damage to the mind and body. It may involve the use of pharmaceuticals, diet, exercise, surgical intervention, and technical procedures.

*Nonexcepted medical care* means medical care (other than excepted medical care) that is sought by or for a beneficiary who has elected religious nonmedical health care institution services.

*Religious nonmedical care or religious method of healing* means health care furnished under established religious tenets that prohibit conventional or unconventional medical care for the treatment of a beneficiary, and the sole reliance on these religious tenets to fulfill a beneficiary's total health care needs.

*RNHCI* stands for "religious nonmedical health care institution," as defined in section 1861(ss)(1) of the Act.

*Religious nonmedical nursing personnel* means individuals who are grounded in the religious beliefs of the RNHCI, trained and experienced in the principles of nonmedical care, and formally recognized as competent in the administration of care within their religious nonmedical health care group.

**§ 403.720 Conditions for coverage.**

Medicare covers services furnished in an RNHCI if the following conditions are met:

(a) The provider meets the definition of an RNHCI as defined in section 1861(ss)(1) of the Act. That is, it is an institution that:

(1) Is described in section 501(c)(3) of the Internal Revenue Code of 1986 and is exempt from taxes under section 501(a).

(2) Is lawfully operated under all applicable Federal, State, and local laws and regulations.

(3) Furnishes only nonmedical nursing items and services to beneficiaries who choose to rely solely upon a religious method of healing and for whom the acceptance of medical services would be inconsistent with their religious beliefs.

(4) Furnishes nonmedical items and services exclusively through nonmedical nursing personnel who are experienced in caring for the physical needs of nonmedical patients.

(5) Furnishes nonmedical items and services to inpatients on a 24-hour basis.

(6) Does not furnish, on the basis of religious beliefs, through its personnel or otherwise medical items and services (including any medical screening, examination, diagnosis, prognosis, treatment, or the administration of drugs) for its patients.

(7) Is not owned by, is not under common ownership with, or does not have an ownership interest of 5 percent or more in, a provider of medical treatment or services and is not affiliated with a provider of medical treatment or services or with an individual who has an ownership interest of 5 percent or more in, a provider of medical treatment or services. (Permissible affiliations are described at § 403.738(c).)

(8) Has in effect a utilization review plan that sets forth the following:

(i) Provides for review of the admissions to the institution, the duration of stays, and the need for continuous extended duration of stays in the institution, and the items and services furnished by the institution.

(ii) Requires that reviews be made by an appropriate committee of the institution that included the individuals responsible for overall administration and for supervision of nursing personnel at the institution.

(iii) Provides that records be maintained of the meetings, decisions, and actions of the review committee.

(iv) Meets other requirements as the Secretary finds necessary to establish an effective utilization review plan.

(9) Provides information CMS may require to implement section 1821 of the Act, including information relating to quality of care and coverage decisions.

(10) Meets other requirements CMS finds necessary in the interest of the health and safety of the patients who receive services in the institution. These requirements are the conditions of participation in this subpart.

(b) The provider meets the conditions of participation cited in §§ 403.730 through 403.746. (A provider may be deemed to meet conditions of participation in accordance with part 488 of this chapter.)

(c) The provider has a valid provider agreement as a hospital with CMS in accordance with part 489 of this chapter and for payment purposes is classified as an extended care hospital.

(d) The beneficiary has a condition that would make him or her eligible to receive services covered under Medicare Part A as an inpatient in a hospital or SNF.

(e) The beneficiary has a valid election as described in § 403.724 in effect for Medicare covered services furnished in an RNHCI.

**§ 403.724 Valid election requirements.**

(a) *General requirements.* An election statement must be made by the Medicare beneficiary or his or her legal representative.

(1) The election must be a written statement that must include the following statements:

(i) The beneficiary is conscientiously opposed to acceptance of nonexcepted medical treatment.

(ii) The beneficiary acknowledges that the acceptance of nonexcepted medical treatment is inconsistent with his or her sincere religious beliefs.

(iii) The beneficiary acknowledges that the receipt of nonexcepted medical treatment constitutes a revocation of the election and may limit further receipt of services in an RNHCI.

(iv) The beneficiary acknowledges that the election may be revoked by submitting a written statement to CMS.

(v) The beneficiary acknowledges that revocation of the election will not prevent or delay access to medical services available under Medicare Part A in facilities other than RNHCI.

(2) The election must be signed and dated by the beneficiary or his or her legal representative.

(3) The election must be notarized.

(4) The RNHCI must keep a copy of the election statement on file and submit the original to CMS with any information obtained regarding prior elections or revocations.

(5) The election becomes effective on the date it is signed.

(6) The election remains in effect until revoked.

(b) *Revocation of election.* (1) A beneficiary's election is revoked by one of the following:

(i) The beneficiary receives nonexcepted medical treatment for which Medicare payment is requested.

(ii) The beneficiary voluntarily revokes the election and notifies CMS in writing.

(2) The receipt of excepted medical treatment as defined in § 403.702 does not revoke the election made by a beneficiary.

(c) *Limitation on subsequent elections.*

(1) If a beneficiary's election has been made and revoked twice, the following limitations on subsequent elections apply:

(i) The third election is not effective until 1 year after the date of the most recent revocation.

(ii) Any succeeding elections are not effective until 5 years after the date of the most recent revocation.

(2) CMS will not accept as the basis for payment of any claim any elections executed on or after January 1 of the calendar year in which the sunset provision described in § 403.756 becomes effective.