

CAH employee at the time the services are furnished.

[48 FR 12541, Mar. 25, 1983, as amended at 50 FR 33033, Aug. 16, 1985; 58 FR 30666, 30667, May 26, 1993]

**§ 409.13 Drugs and biologicals.**

(a) Except as specified in paragraph (b) of this section, Medicare pays for drugs and biologicals as inpatient hospital or inpatient CAH services only if—

(1) They represent a cost to the hospital or CAH;

(2) They are ordinarily furnished by the hospital or CAH for the care and treatment of inpatients; and

(3) They are furnished to an inpatient for use in the hospital or CAH.

(b) *Exception.* Medicare pays for a limited supply of drugs for use outside the hospital or CAH if it is medically necessary to facilitate the beneficiary's departure from the hospital and required until he or she can obtain a continuing supply.

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

**§ 409.14 Supplies, appliances, and equipment.**

(a) Except as specified in paragraph (b) of this section, Medicare pays for supplies, appliances, and equipment as inpatient hospital or inpatient CAH services only if—

(1) They are ordinarily furnished by the hospital or CAH to inpatients; and

(2) They are furnished to inpatients for use in the hospital or CAH.

(b) *Exceptions.* Medicare pays for items to be used beyond the hospital or CAH stay if—

(1) The item is one that the beneficiary must continue to use after he or she leaves the hospital or CAH, for example, heart valves or a heart pacemaker, or

(2) The item is medically necessary to permit or facilitate the beneficiary's departure from the hospital or CAH and is required until the beneficiary can obtain a continuing supply. Tracheostomy or draining tubes are examples.

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

**§ 409.15 Services furnished by an intern or a resident-in-training.**

Medical or surgical services provided by an intern or a resident-in-training are included as "inpatient hospital or inpatient CAH services" if they are provided—

(a) By an intern or a resident-in-training under a teaching program approved by the Council on Medical Education of the American Medical Association, or the Bureau of Professional Education of the American Osteopathic Association;

(b) By an intern or a resident-in-training in the field of dentistry under a teaching program approved by the Council on Dental Education of the American Dental Association; or

(c) By an intern or a resident-in-training in the field of podiatry under a teaching program approved by the Council on Podiatry Education of the American Podiatry Association.

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

**§ 409.16 Other diagnostic or therapeutic services.**

Diagnostic or therapeutic services other than those provided for in §§ 409.12, 409.13, and 409.14 are considered as inpatient hospital or inpatient CAH services if—

(a) They are furnished by the hospital or CAH, or by others under arrangements made by the hospital or CAH;

(b) Billing for those services is through the hospital or CAH; and

(c) The services are of a kind ordinarily furnished to inpatients either by the hospital or CAH or under arrangements made by the hospital or CAH.

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

**§ 409.18 Services related to kidney transplantations.**

(a) *Kidney transplants.* Medicare pays for kidney transplantation surgery only if performed in a renal transplantation center approved under subpart U of part 405 of this chapter.

(b) *Services in connection with kidney donations.* Medicare pays for services related to the evaluation or preparation of a potential or actual donor, to

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the donation of the kidney, or to post-operative recovery services directly related to the kidney donation—

(1) If the kidney is intended for an individual who has ESRD and is entitled to Medicare benefits or can be expected to become so entitled within a reasonable time; and

(2) Regardless of whether the donor is entitled to Medicare.

### Subpart C—Posthospital SNF Care

#### § 409.20 Coverage of services.

(a) *Included services.* Subject to the conditions and limitations set forth in this subpart and subpart D of this part, “posthospital SNF care” means the following services furnished to an inpatient of a participating SNF, or of a participating hospital or critical access hospital (CAH) that has a swing-bed approval:

(1) Nursing care provided by or under the supervision of a registered professional nurse.

(2) Bed and board in connection with the furnishing of that nursing care.

(3) Physical, occupational, or speech therapy.

(4) Medical social services.

(5) Drugs, biologicals, supplies, appliances, and equipment.

(6) Services furnished by a hospital with which the SNF has a transfer agreement in effect under § 483.75(n) of this chapter.

(7) Other services that are generally provided by (or under arrangements made by) SNFs.

(b) *Excluded services*—(1) *Services that are not considered inpatient hospital services.* No service is included as posthospital SNF care if it would not be included as an inpatient hospital service under §§ 409.11 through 409.18.

(2) *Services not generally provided by (or under arrangements made by) SNFs.* Except as specifically listed in §§ 409.21 through 409.27, only those services generally provided by (or under arrangements made by) SNFs are considered as posthospital SNF care. For example, a type of medical or surgical procedure that is ordinarily performed only on an inpatient basis in a hospital is not included as “posthospital SNF care,” because such procedures are not gen-

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erally provided by (or under arrangements made by) SNFs.

(c) *Terminology.* In § 409.21 through § 409.36—

(1) The terms *SNF* and *swing-bed hospital* are used when the context applies to the particular facility.

(2) The term *facility* is used to mean both SNFs and swing-bed hospitals.

(3) The term *swing-bed hospital* includes a CAH with swing-bed approval under subpart F of part 485 of this chapter.

(4) The term *post-hospital SNF care* includes SNF care that does not follow a hospital stay when the beneficiary is enrolled in a plan, as defined in § 422.4 of this chapter, offered by a Medicare+Choice (M+C) organization, that includes the benefits described in § 422.101(c) of this chapter.

[48 FR 12541, Mar. 25, 1983, as amended at 50 FR 33033, Aug. 16, 1985; 58 FR 30667, May 26, 1993; 63 FR 26306, May 12, 1998; 64 FR 3648, Jan. 25, 1999; 64 FR 41681, July 30, 1999; 68 FR 46070, Aug. 4, 2003; 68 FR 50854, Aug. 22, 2003; 69 FR 35529, June 25, 2004]

#### § 409.21 Nursing care.

(a) *Basic rule.* Medicare pays for nursing care as posthospital SNF care when provided by or under the supervision of a registered professional nurse.

(b) *Exception.* Medicare does not pay for the services of a private duty nurse or attendant. An individual is not considered to be a private duty nurse or attendant if he or she is an SNF employee at the time the services are furnished.

[63 FR 26306, May 12, 1998]

#### § 409.22 Bed and board.

(a) *Semiprivate and ward accommodations.* Except for applicable deductible and coinsurance amounts Medicare Part A pays in full for semiprivate (2 to 4 beds), or ward (5 or more beds) accommodations.

(b) *Private accommodations*—(1) *Conditions for payment in full.* Except for applicable coinsurance amounts, Medicare pays in full for a private room if—

(i) The patient’s condition requires him to be isolated;

(ii) The SNF has no semiprivate or ward accommodations; or

(iii) The SNF semiprivate and ward accommodations are fully occupied by