

Regulation 61-95

Medicaid Nursing Home Permits

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Statutory Authority:	S.C. Code Sections 44-7-80 through 44-7-90
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Regulation History as Published in State Register			
Date	Document Number	Volume	Issue
May 26, 1989	983	13	5

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SECTION 101. DEFINITIONS.

For the purpose of these Regulations, the following definitions shall apply:

- A. Department - “Department” means the Department of Health and Environmental Control.
- B. Medicaid Nursing Home Permit - “Medicaid nursing home permit” means a permit issued in accordance with these regulations.
- C. Medicaid-Participating Nursing Home Bed - “Medicaid-participating nursing home bed” means those nursing home beds certified for Medicaid (Title XIX) reimbursement, for which the nursing home has a Certificate of Need or grandfathered exemption for Title XIX participation.
- D. Medicaid Patient - “Medicaid patient” means a person who is eligible for Medicaid (Title XIX) sponsored long-term care services.
- E. Medicaid Patient Day - “Medicaid patient day” means a day of nursing home care for which a nursing home receives Medicaid reimbursement.
- F. Medical Facilities Plan - The “Medical Facilities Plan” contains projections of nursing home bed need and sets priorities for the allocation of Medicaid beds; it is published annually by the Department and approved by the Board of Health and Environmental Control.
- G. Nursing Home - “Nursing home” means a facility with an organized nursing staff to maintain and operate organized facilities and services to accommodate two or more unrelated persons over a period exceeding twenty-four hours, which is operated either in connection with a hospital or as a freestanding facility for the express or implied purpose of providing intermediate or skilled nursing care for persons who are not in need of hospital care.

SECTION 102. CONDITIONS.

- A. No nursing home may provide care to Medicaid patients without first obtaining a Medicaid nursing home permit in the manner provided in Section 105.
- B. A permit is issued pursuant to the provisions of Sections 44-7-80 through 44-7-90, 44-7-130, and 44-7-320 of the South Carolina Code of Laws of 1976, as amended. Such permit is not assignable or transferable and is subject to revocation by the Department for failure to comply with the laws of the State of South Carolina.
- C. Effective Date and Term of Permit:

A permit shall be effective from the issuance date until the end of the State Fiscal Year in which the permit was issued.
- D. Separate Permits: Separate permits are required for each licensed facility.
- E. Permitting Fees: No annual fee is required to obtain a permit.
- F. Inspections: All nursing homes to which these requirements apply shall be subject to inspection at any time without prior notice by properly identified personnel of the Department. Documents required by these regulations shall be maintained and available for inspection.

G. Exceptions to Certificate of Need Conditions: If a Certificate of Need (Section 44-7-320 of the 1976 Code) has been issued with specific conditions or restrictions attached, the Department may permanently remove Medicaid conditions or restrictions or waive them on an annual basis without requiring further review under the Certificate of Need program.

H. Change of Ownership, Name or Address: A facility shall request issuance of an amended permit, by letter to the Department, prior to either of the following circumstances:

1. Change of ownership by purchase or lease.
2. Change of facility's name or address.

I. Involuntary Discharge or Transfer: Nursing homes participating in Medicaid may not involuntarily discharge or transfer patients due to their Medicaid Status.

SECTION 103. PENALTIES.

A. The Department shall request quarterly reports from the State Health and Human Services Finance Commission, indicating the number of Medicaid patient days for which Medicaid reimbursement was received by each nursing home. Based on these reports, the Department will determine each nursing home's compliance with its Medicaid nursing home permit.

B. Nursing homes shall be subject to a penalty for violating these regulations. Violations include:

- (1) a nursing home exceeding by more than ten (10) percent the number of Medicaid patient days stated in its permit;
- (2) a nursing home failing to provide at least ninety (90) percent of the number of Medicaid patient days stated in its permit;
- (3) the provision of any Medicaid patient days by a nursing home without a Medicaid nursing home permit.

C. Each Medicaid patient day above or below the allowable range is considered to be a separate violation. The Department may levy a fine not to exceed the facility's average rate per Medicaid patient day times each violation.

SECTION 104. WAIVER OF PERMIT REQUIREMENTS.

A nursing home may request a waiver of permit requirements from the Department if no Medicaid patients are waiting for admission to the nursing home, or if for some other reason a nursing home anticipates that the home cannot satisfy the Medicaid nursing home permit requirements. Applicants must document the reasons for such a waiver. Community Long Term Care (CLTC) waiting list data may be used as an indicator.

SECTION 105. APPLICATION.

A. Within sixty (60) days of the effective date of the annual appropriations act, all facilities desiring to serve Medicaid patients must apply to the Department for a Medicaid nursing home permit. Facilities failing

to apply within the sixty-day time period will be ineligible to receive Title XIX reimbursement for the fiscal year covered by the annual appropriations act.

B. The application, to be filed upon forms provided by the Department, shall be forwarded to the Bureau of Health Facilities and Services Development, Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201. The application shall set forth at least the following:

- (1) name of facility;
- (2) address of facility;
- (3) telephone number of facility;
- (4) specific number of Medicaid patient days the nursing home proposes to provide;
- (5) assurance of compliance with this Act;
- (6) signature of the administrator.

SECTION 106. ALLOCATION.

A. Based upon the maximum number of Medicaid patient days authorized by the General Assembly in the annual appropriations act and the number of Medicaid patient days requested by the nursing homes, the Department will allocate the Medicaid nursing home permits as follows:

1. The first year that permits are issued, priority will be given to facilities (in existence, under construction, or issued a Certificate of Need) for beds that have been previously approved and/or certified to participate in the Medicaid program. The initial allocation will be for no more than the maximum number of patient days which can be provided in the beds previously approved and/or certified for Medicaid participation. Should there be more Medicaid patient days requested than Medicaid patient days authorized by the General Assembly, the number of Medicaid patient days allocated to each nursing home in its Medicaid nursing home permit shall be decreased by the same percentage reduction required to equal the authorized Medicaid patient days.

2. In following years, priority will be given to facilities to renew permits authorizing up to the same number of Medicaid patient days as allocated in the permit for the preceding year. Should the maximum number of Medicaid patient days authorized by the General Assembly be decreased from the previous year, the number of Medicaid patient days allocated to each nursing home in its Medicaid nursing home permit shall be decreased by the same percentage as the percent reduction in the number of patient days authorized by the General Assembly.

3. If there are still Medicaid patient days remaining to be allocated after priority is given in accordance with the above paragraphs, the Medicaid patient days will be allocated to licensed nursing homes by county based on the Medicaid county priority list published in the South Carolina Medical Facilities Plan in effect at the time the allocation is being made.

4. The Department shall not approve additional Medicaid patient days for beds which exceed the general long-term care bed need shown for a county in the Medical Facilities Plan unless all other licensed facilities which could provide Medicaid patient days in counties where a general long-term bed need is shown have been accounted for in the allocation of Medicaid patient days.

B. Should there be competing applications within a particular county for Medicaid patient days under Section 106 A.(3). above, the Department may make a partial allocation of Medicaid patient days to more than one facility or a full allocation to a single facility, if, in the best judgment of the Department, such allocation will better serve the needs of the Medicaid population.

C. The number of Medicaid patient days allocated to a nursing home will not be decreased from the previous year's allocation, unless either:

- (1) the nursing home requests a lesser allocation; or
- (2) the maximum number of Medicaid patient days in the appropriations act is decreased.

SECTION 107. ISSUANCE OF PERMIT.

A. Full Allocation

When a properly completed application is received by the Department and it is determined, using the methodology in Section 106, that the facility should receive the requested allotment of Medicaid patient days, a Medicaid nursing home permit shall be issued.

B. Partial Allocation

When it is determined that a facility should receive fewer Medicaid patient days than requested in the application, the Department shall notify the applicant of this determination, setting forth the reasons for the decision.

SECTION 108. APPEALS BY THE APPLICANT.

Should the Department determine to deny issuance of a Medicaid Nursing Home Permit, or permit only a portion of the Medicaid patient days requested, it shall send to the applicant a notice setting forth the particular reasons for the determination. The decision shall become final thirty (30) days after the mailing of the notice, unless the applicant, within such thirty-day period, shall give notice of his desire for an administrative hearing. If the applicant shall give such notice, he shall be given a hearing before the Board of Health and Environmental Control or its designee pursuant to Regulations promulgated by the Department.