Maryland
DEPARTMENT OF HEALTH
Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Robert R. Neall, Secretary

MEMORANDUM

To: Nursing Facility Administrators

From: Marlana R. Hutchinson, Director
Office of Long Term Services and Supports

Subject: Processing Change of Payer for Residents Impacted by COVID-19

Date: August 19, 2020

Note: Please ensure the appropriate staff members in your organization are informed of the contents of this memorandum.

The Maryland Department of Health (MDH) is providing additional clarification regarding nursing facility residents who become eligible for Medicaid following a period of Medicare coverage as a result of COVID-19 activity as declared by the Centers for Medicare and Medicaid Services (CMS).

If an individual becomes eligible for Medicare due to COVID-19 and then returns to Medicaid, do they require a new initial Level of Care (LOC)?

1) **If an individual was affected by COVID-19, he/she will not require a new initial LOC request when returning from Medicare.** Under regular circumstances, CMS requires a qualifying 3-day prior hospitalization for Medicare to cover a skilled nursing facility stay. CMS is waiving this requirement for people who experience dislocations, or are otherwise affected by COVID-19. It will not be necessary for nursing facilities to submit a new initial LOC request (3871B) for recipients for whom Telligen, Maryland's utilization control agent, has already determined and certified their level of care. Residents should remain on their established continued stay review (CSR) cycle in these instances. The CSR is a standard periodic evaluation to ascertain whether the resident continues to require the level of care that the facility is licensed to provide.

2) **Initial requests for individuals with an established CSR cycle will be returned without further review.** If Telligen receives or has already received an initial LOC request for a resident with an active level of care and CSR cycle, Telligen will mark that request "No Review Required" and return the request to the provider with a reference to the case ID that contains the active level of care determination.

When is it acceptable to request a new initial LOC?

1) **When the individual is new to nursing facility care.** An initial LOC request is required for individuals entering nursing facility care for the first time, regardless of their previous setting or payer.

2) **When the individual has been receiving nursing facility care, they may request a new initial LOC, provided the Department does not consider it duplicative.** A provider should not make a new initial request following an earlier request sent less than 21 days prior, with some exceptions. Those exceptions are:

    a. If the requested begin pay date for the subsequent request is before the original begin pay date, this is acceptable as initial.

    b. If the original request was for new eligibility and subsequent request is for transfer to another facility, this is acceptable as initial.

    c. If the request is for readmission following a hospital stay of more than 15 days, this is acceptable as initial.

The Department considers other scenarios where an individual has been receiving nursing facility care to be on a CSR schedule and a new initial request would be unnecessary.

If an individual becomes eligible for Medicare due to COVID-19 and then returns to Medicaid, is a MDH form 257 required?

An MDH form 257 is required for changes in setting and payer. Regardless of the temporary changes with respect to submitting 3871B, the current process of reporting/identifying the recipient's location on the form 257 will remain in effect. Long term care facilities no longer receive payment for hospital leave days and should bill accordingly. If providers have questions about Medicare payment, they are encouraged to follow procedures described in the Medicare Claims Processing Manual. For claims inquiries, please contact the Problem Resolution Unit at 410-767-5457.

Any questions regarding this communication may be directed to the Office of Long Term Services and Supports as follows:

Jarrod C. Terry, Chief, Division of Long Term Care
410-767-6764 / jarrod.terry@maryland.gov

Jason Higgins, Utilization Control Manager, Office of Long Term Services & Supports
410-767-1432 / jason.higgins@maryland.gov

Summary of Required Documents

Examples	***New LTC Application needed?***	***New 3871B needed?***	***Form 257 needed?***
Initial Stay (new to NF care)	Yes	Yes	Yes
Initial Stay (transfer to new provider)	No, if the applicant has already submitted an application for LTC MA	Yes	Yes
Continued Stay (Standard) – No changes in setting or payer	No, if the applicant has already submitted an application for LTC MA	No	No
Continued Stay (Change from Medicare to Medicaid due to COVID-19) - Same facility	No, if the applicant has already submitted an application for LTC MA	No	Yes
Continued Stay (Change from Medicare to Medicaid due to COVID-19) - New building but same provider group	No, if the applicant has already submitted an application for LTC MA	No	Yes