

**§1812-H. Participation in the Medicare health insurance for the aged program**

**1. Medicare.** Any nursing facility that participates in the Medicaid program must participate in the Medicare health insurance for the aged program as a skilled nursing facility. [PL 1993, c. 410, Pt. FF, §4 (AMD).]

**2. Compliance.** Any nursing facility required to participate in the Medicare health insurance for the aged program shall:

A. File an application to become a Medicare provider by January 1, 1994; [PL 1993, c. 410, Pt. FF, §5 (AMD).]

B. Follow required federal procedures for certification and become certified within 90 days of the department's recommendation for certification; [PL 1991, c. 622, Pt. M, §10 (NEW).]

C. Submit an annual application for Medicare participation at the same time applications for licensure and Medicaid certification are due; and [PL 1991, c. 622, Pt. M, §10 (NEW).]

D. Participate in the Medicare program by billing Medicare for care provided to eligible recipients prior to billing Medicaid. [PL 1991, c. 622, Pt. M, §10 (NEW).]  
[PL 1993, c. 410, Pt. FF, §5 (AMD).]

**2-A. Rules.** The department shall adopt rules to implement this section. The rules must consider the unique needs of different parts of the State. Nursing facilities in different parts of the State may be required to certify different numbers or percentages of beds depending on the number of Medicare recipients in those areas, the number of patients in hospitals who are waiting for nursing facility admission and other relevant demographic information. Nothing in this subsection prohibits the department from requiring all nursing facilities to certify all of their beds as Medicare skilled nursing facility beds.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2007, c. 324, §3 (AMD).]

**2-B. Implementation.** Notwithstanding any provision of this section to the contrary, a nursing facility may decline to admit a prospective resident after an evaluation of the person's clinical condition and related care needs and a determination that the facility lacks qualified staff to meet the level of care required for that person. A nursing facility is not subject to penalty or sanction for declining to admit a prospective resident under this subsection. Nothing in this subsection affects the obligation of a nursing facility to provide care specific to the needs of residents of the facility.

[PL 2001, c. 600, §1 (NEW).]

**3. Sanctions.** Failure to comply with any of the provisions listed in this section may result in the imposition of a penalty. The department may impose a penalty of not less than \$100 per bed per day and not more than \$5,000 per day for failure to comply with any of these provisions. This penalty must be imposed for each day a facility fails to comply with subsection 2, paragraph D. A repeated failure to comply with a provision results in fines of not less than \$200 per bed per day and not more than \$10,000 per day. The imposition and collection of these penalties are governed by section 7946.

[PL 2007, c. 324, §3 (AMD).]

**SECTION HISTORY**

PL 1991, c. 622, §M10 (NEW). PL 1991, c. 671, §L2 (AMD). PL 1993, c. 410, §§FF4-7 (AMD). PL 2001, c. 600, §1 (AMD). PL 2007, c. 324, §3 (AMD).

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