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Trouble getting Medicare coverage at home if condition is chronic

Kaiser Health News and *Elder Law Answers* recently reported on the issue of home health care patients with Medicare coverage who are having difficulty obtaining necessary care under their Medicare benefit if they have chronic conditions. Just as those individuals in skilled nursing facilities are being denied coverage under Medicare because they are not making progress, home health care agencies are denying coverage to those with long term needs that do not show improvement. (<https://khn.org/news/home-care-agencies-often-wrongly-deny-medicare-help-to-the-chronically-ill/>).

Medicare is mandated to cover home health benefits indefinitely, up to 35 hours per week in the aggregate. In particular, Medicare is required to cover skilled nursing a facility and care in the home even if the patient has a chronic condition. Confusion over the "improvement standard" is just part of the problem, but underscores much of what is preventing Medicare home care agencies from accepting long term care patients with chronic conditions. For many years, home health care agencies and nursing homes that contract with Medicare routinely terminated Medicare coverage for a beneficiary who has stopped improving, even though that standard was never part of the regulations. In 2011, the Center for Medicare Advocacy (CMA) and Vermont Legal Aid prevailed in a lawsuit against the Centers for Medicaid and Medicare (CMS) to end the government's use of the improvement standard. Despite a more recent court order directing CMS to educate providers and revise the policy manuals, the improvement standard lives on. It is most devastating for patients in their homes with long term care needs who could remain home and off of Medicaid if home health care agencies would provide the necessary care mandated by Medicare.

There are other facets of this problem. Medicare's Home Health Compare may be having a negative effect on agencies' willingness to accept long term care patients with chronic illnesses. One measure that is discussed is whether patients improve. Patients with chronic conditions do not necessarily "improve" although care provided by a Medicare home health care agency can keep a patient with a chronic illness from deteriorating and prevent common complications related to chronic illnesses. Furthermore, home health agencies in nine states will benefit from more than just ratings. They will receive payment bonuses for providing good care; one measure is improvement.

Another issue is a new prohibition on discharging patients from services without a doctor's order. That may mean a new reluctance to take on patients that cannot be easily discharged. Additionally, some agencies are concerned about getting paid since Medicare is more likely to audit providers who provide long term care to discourage fraud.

Medicare, under federal law, requires payment for home care, with no co-payments or deductibles, if ordered by a doctor and if the patient can leave home only with great difficulty. It is intermittent skilled care which can include an aide to help with bathing, transfers, etc. Improvement is not a condition for coverage.

If you have been denied coverage, it is possible to appeal but you will need to be persistent and have your doctor assist you. CMA has self-help packets available on their website (www.medicareadvocacy.org). This is an opportunity for you or your loved one to get the help you need at home under your Medicare benefit that could make the difference between staying home or going to a home.