

Medicare Part A Therapeutic Pass, Home Visit, LOA, and Midnight Rule Top 6 Things to Know

Through our national medical record reviews, HHI finds that Medicare Part A patients may be erroneously prevented from taking a therapeutic pass, home visit or a clinically beneficial leave of absence due to the lack of education and understanding at the skilled nursing facility.

Medicare Part A beneficiaries have the right to access to the community, family gatherings, meetings, and other events during their Medicare Part A stay in a skilled nursing facility. A temporary leave or therapeutic pass will not jeopardize a resident's Medicare Part A insurance coverage if the following concepts are understood, and the proper steps are followed. This includes leaving the facility for legal matters such as a court date or appointment with their attorney, and social matters such as a funeral.

1.) Practical Matter Criterion

The practical matter criterion reinforces that if a patient is utilizing his/her Medicare Part A insurance while in a SNF, the skilled nursing facility should **not interpret the regulation so strictly** that the patient is denied an outing or leave because the skilled nursing is worried about Medicare payment.

“As a practical matter, considering economy and efficiency the services can only be provided in a SNF.”

Another way to understand this concept is recall the **30-Day Rule** i.e., if the patient leaves and returns to the SNF within the 30-Day window, the patient may resume the Medicare Part A benefits without a new 3-night hospital stay.

“While most Beneficiaries requiring a SNF level of care find that they are unable to leave the facility for even the briefest of time, the fact that a patient is granted an **outside pass or short leave of absence** for attending a special religious service, holiday meal or family occasion, for going on a ride or for a trial visit home, is not by itself evidence that the individual no longer needs to be in a SNF to receive required skilled care. Very often special arrangements are made to allow for absence from the facility that would not be feasible on a daily basis.

Where frequent or prolonged periods away from the SNF become possible, however, then questions as to whether the patient's care can, as a practical matter, only be furnished on an inpatient basis in an SNF may be raised. In these cases, base the decision on information **reflecting the care needed and received by the patient while in the SNF and on the arrangements needed for the provision**, if any, of this care during any absences.

Harmony Healthcare International (HHI)

430 Boston Street, Suite 104, Topsfield, MA 01983 ♦ Tel: 978-887-8919 ♦ Fax: 978-887-3738
www.harmony-healthcare.com

Medicare Part A Therapeutic Pass, Home Visit, LOA, and Midnight Rule Top 6 Things to Know

For the question, “How long of an absence can still be considered a Leave of Absence for a patient on a Medicare Part A Skilled SNF stay,” consider the Practical Matter Criterion, and be sure document the arrangements that were made to accommodate the needed care during the absence and why it was not feasible on a day to day basis beyond the Leave of Absence. For more information about counting inpatient days during a leave of absence, please refer to Chapter 3 of the Medicare Benefit Policy Manual at <https://www.cms.gov/regulations-and-guidance/guidance/manuals/downloads/bp102c03pdf.pdf>)

2.) Leave of Absence

The RAI Manual defines a **Leave of Absence (LOA)** while in a SNF as follows:

- **Temporary** home visit of at least one night; or
- Therapeutic leave of at least one night; or
- Hospital observation stay less than 24 hours and the hospital does not admit the resident.

It’s important to understand that states have different rules and regulations for Leave of Absence when Medicaid is the payer. The Interdisciplinary Team must know what these state regulations require.

For this discussion, we want to focus on stays where the payer is Medicare Part A. Facilities often use the term “Leave of Absence” to describe a variety of circumstances, but the RAI Manual clearly dictates when an OBRA Discharge Assessment is required, regardless of semantics.

The RAI Manual, Chapter 2, page 2-10 states, **“Any of the following situations warrant a Discharge assessment, regardless of facility policies regarding opening and closing clinical records and bed holds”** and goes on to list:

- Resident is discharged from the facility to a private residence (**as opposed to going on an LOA as defined above**);
- Resident is admitted to a hospital or other care setting (regardless of whether the nursing home discharges or formally closes the record);
- Resident has a hospital observation stay greater than 24 hours, regardless of whether the hospital admits the resident.

For Example:

Harmony Healthcare International (HHI)

430 Boston Street, Suite 104, Topsfield, MA 01983 ♦ Tel: 978-887-8919 ♦ Fax: 978-887-3738
www.harmony-healthcare.com

Medicare Part A Therapeutic Pass, Home Visit, LOA, and Midnight Rule Top 6 Things to Know

- If a resident **leaves** a SNF at **6:00 p.m. on Wednesday**, which is **day 27** of the resident's stay, and
- **Returns** to the SNF on **Thursday at 9:00 a.m.** without a hospital admission.
- Then, **Wednesday becomes a non-billable leave of absence day** and
- **Thursday becomes day 27** of the resident's Medicare schedule.

In these situations, since the resident has **not been discharged**, it is **not necessary** to complete a **discharge assessment** or complete a new PPS assessment. The **day they left the facility and were not in their bed in the SNF at midnight that night** is not a Medicare covered day and the billing should be adjusted to skip the non-covered day.

Now, let's look at the Leave of Absence that occurs within the lookback period of the 5-day PPS assessment.

- The resident leaves the SNF at 6:00 PM on Wednesday, the first of the month, which is day 3 of the Medicare Part A stay, and
- **Returns** to the SNF on **Thursday, the second of the month, at 9:00 AM** without a hospital admission.
- **No hospital admission or observation stay greater than 24 hours means no OBRA discharge is required.**
- In this case, **Wednesday still becomes a non-billable leave of absence day** and
- **Thursday becomes day 3** of the resident's Medicare schedule.
- If the ARD for the 5-day PPS assessment was scheduled for day 7, which would have been Tuesday, the 7th of the month, that is now day 6 of the Medicare Part A stay
- The ARD can either be moved or remain the same.
- If Respiratory Therapy at 15 minutes for 7 days was determining the Nursing Component, then the facility would want to move the ARD to the next day in order to capture 7 days, because Tuesday the 7th is now day.
- Likewise, if an ARD was set earlier to capture IV fluids in the hospital, moving the ARD would also move the lookback period, and possibly miss the fluids.

3.) Interrupted Stay

With PDPM came the Interrupted Stay, and that has added to the confusion. An Interrupted Stay occurs when a person on a Medicare Part A stay is out of the facility for less than 3 consecutive nights **when an OBRA discharge is required**. For Example:

- If a resident **leaves** a SNF for a follow up doctor's appointment at **10:00 AM on Wednesday**, which is **day 27** of the resident's stay, and

Harmony Healthcare International (HHI)

430 Boston Street, Suite 104, Topsfield, MA 01983 ♦ Tel: 978-887-8919 ♦ Fax: 978-887-3738
www.harmony-healthcare.com

Medicare Part A Therapeutic Pass, Home Visit, LOA, and Midnight Rule Top 6 Things to Know

- Their doctor sends them to the hospital for 2 units of blood
- The hospital keeps them for observation status until noon on Thursday, and
- The resident **Returns** to the SNF on **Thursday at 9:00 PM.**
- Because the observation stay was greater than 24 hours, an OBRA discharge is required.
- The facility submits a Discharge Return Anticipated with the ARD of Wednesday's date.
- Question A0310 G1, "Is this a SNF Part A Interrupted Stay?" is coded "yes."
- As with the Leave of Absence, **Wednesday becomes a non-billable leave of absence day** and
- **Thursday becomes day 27** of the resident's Medicare schedule.
- A new 5-day PPS Assessment is **not** completed
- An IPA PPS Assessment is **optional**. If it will produce a higher paying HIPPS code, do it. If it won't, don't.
- Because of OBRA rules, a new Admission Assessment is **not** required, but a Significant Change may be necessary, if OBRA criteria for Significant Change are met.

Hospital discharges are not the only potential Interrupted Stays. If the resident returns home on a planned or unplanned discharge and returns to the facility before three midnights have passed, the Interrupted Stay applies.

Once a resident is discharged from the facility past 3 consecutive midnights, a new 5-Day PPS Assessment **is required**. The date of their return will be day 1 of the new Medicare Part A stay.

Remember, PDPM did not change the OBRA regulations for OBRA assessments.

If the patient returns following a Discharge Return Anticipated within 30 days, a new OBRA Admission Assessment is not required, if an OBRA Admission Assessment was completed prior to the Discharge Return Anticipated.

4.) Midnight Rule versus 24-Hour Rule

Harmony Healthcare International (HHI) notes that the biggest area of confusion is understanding the difference between the midnight rule and the 24-hour rule. A key starting point is identifying where **the patient is at midnight** and if **the patient is gone greater than 24 hours**.

To simplify:

- If the patient is gone greater than 24 hours to home on a planned Leave of Absence (OBRA discharge not required):

Harmony Healthcare International (HHI)

430 Boston Street, Suite 104, Topsfield, MA 01983 ♦ Tel: 978-887-8919 ♦ Fax: 978-887-3738
www.harmony-healthcare.com

Medicare Part A Therapeutic Pass, Home Visit, LOA, and Midnight Rule Top 6 Things to Know

- No discharge assessment.
 - Still under the same plan of care
 - No new PPS
 - If the Leave of Absence happens during the lookback period of the 5-Day PPS, the facility may or may not want to move the ARD in accordance with the changes in the days of stay count.
- **If the patient is gone greater than 24 hours to hospital whether admitted or observation, but returns to the SNF before the third midnight:**
 - Discharge Assessment, Return Anticipated
 - Question A0310 G1, "Is this a SNF Part A Interrupted Stay?" is coded "yes."
 - No new 5-Day PPS Assessment
 - IPA PPS Assessment Optional
 - No Admission Assessment
 - May need Significant Change
- **If the patient is gone greater than 24 hours to hospital whether admitted or observation, but returns to the SNF after the third midnight:**
 - Discharge Assessment, Return Anticipated
 - Question A0310 G1, "Is this a SNF Part A Interrupted Stay?" is coded "no."
 - New 5-Day PPS Assessment
 - No OBRA Admission Assessment if an OBRA Admission Assessment was completed during the first Part A stay
 - May need Significant Change
- **If the patient is gone less than 24 hours, and not admitted as an inpatient to the hospital, and not in their bed in the SNF at midnight:**
 - A skip day.

5.) MD Order for a Therapeutic Pass

Most SNF admissions have a standing order or order template for LOA. However, HHI cautions the SNF because a standing LOA may not support skilled coverage.

If a Medicare Part A patient is going to take a leave:

Harmony Healthcare International (HHI)

430 Boston Street, Suite 104, Topsfield, MA 01983 ♦ Tel: 978-887-8919 ♦ Fax: 978-887-3738
www.harmony-healthcare.com

Medicare Part A Therapeutic Pass, Home Visit, LOA, and Midnight Rule Top 6 Things to Know

- Obtain **MD Order** stating the “**Therapeutic Leave**”.
- Therapy and Nursing notes should **detail the skilled level** and **caregiver training** that occurs before and after the therapeutic leave.

6.) Documentation

For Medicare part A purposes, the nursing team and therapy team should work collaboratively to ensure that the documentation **describes the reason for the temporary therapeutic pass**, the techniques necessary to ensure safe therapeutic and the medical conditions that require close monitoring and observation by the caregiver.

Upon return, providers should **make appropriate documentation** in the Medical Record regarding any changes noted in the resident’s condition and behaviors.

Harmony Healthcare International (HHI)

430 Boston Street, Suite 104, Topsfield, MA 01983 ♦ Tel: 978-887-8919 ♦ Fax: 978-887-3738
www.harmony-healthcare.com