

Jimmo v. Sebelius

Annual Medicare Training

Centers for Medicare & Medicaid Services

Annual Medicare Training



Learning Objectives



Upon completion of this training the learner will be able to:

- ❑ Summarize Medicare regulations related to the 2013 court settlement in the case of Jimmo v. Sebelius
- ❑ Describe Medicare's policy for beneficiaries in need of:
 - Skilled Nursing Facility Services
 - Home Health
 - Inpatient Rehabilitation Facility
 - Outpatient Therapy
- ❑ Discuss the importance of maintaining compliance with Medicare regulations related to skilled therapy services



History of Jimmo v. Sebelius

The lawsuit was brought on behalf of individual beneficiaries and national organizations representing people with chronic conditions, to challenge the use of the *illegal Improvement Standard*.

<https://www.medicareadvocacy.org/medicare-info/improvement-standard/>

*Under the maintenance standard articulated in the **Jimmo v. Sebelius** settlement, the important issue is whether the skilled services of a health care professional are needed, not whether the Medicare beneficiary will “improve.”*

Jimmo v. Sebelius

- ❑ Medicare's policy requires beneficiaries receive *skilled services* in order to provide reasonable and necessary care to *prevent or slow further deterioration*
- ❑ Coverage for skilled nursing and skilled therapy services are not determined by the member's potential for improvement, but rather on the beneficiary's need for skilled care
- ❑ Coverage cannot be denied based on the absence of the potential for improvement or restoration



Medicare Coverage: Therapy Services



Medicare coverage criteria for Skilled Therapy services include:

- An assessment of the member's condition that demonstrates therapy is needed for safety and maintenance of functional ability
- Therapy may prevent or slow further deterioration



How Members Obtain Therapy



- Outpatient Therapy
- Skilled Nursing Facility
- Home Health Care



Outpatient Therapy Providers



- ❑ Physical Therapists
- ❑ Speech-Language Pathologists
- ❑ Occupational Therapists
- ❑ Physicians and other health care professionals
 - Nurse Practitioner
 - Clinical Nurse Specialists
 - Physician Assistants

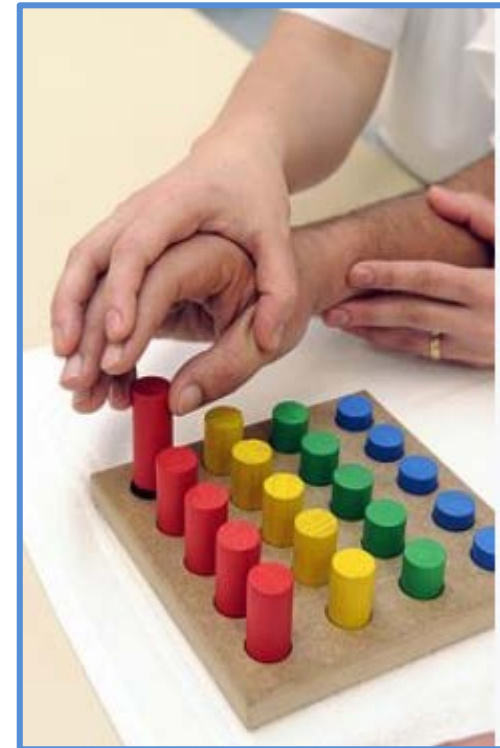


Outpatient Therapy Services



Where can Medicare members receive outpatient therapies?

- Private practice therapist offices
- Outpatient hospital departments
- Rehabilitation facilities
- Comprehensive outpatient rehabilitation facilities
- Skilled nursing facilities
- Home health agencies



Skilled Nursing Facility (SNF)



☐ Covered SNF Services:

Skilled nursing care is necessary only when the needed services are of such complexity that the skills of a registered nurse (RN) / licensed practical nurse (LPN) are required to furnish the services

Skills are necessary to maintain the current condition and slow further deterioration

Treatment goals are based on individualized assessment or evaluation

Skilled Nursing Facility (SNF) ...



☐ Covered SNF Services:

Healthcare providers continually evaluate the member's need for skilled care

Covered services meet Medicare requirements for reasonable and necessary to diagnose or treat the condition

Ongoing determinations for continued care are based on the goals and treatment plan

Skilled Nursing Facility (SNF) ...

❑ Non-covered SNF Services:

Maintenance services are not covered under the SNF or Home Health benefits

Services needed can be effectively performed by the member or unskilled caregivers

The individualized assessment of the clinical condition does not demonstrate a need for skilled care



Home Health Services



❑ Covered Home Health Services:

Describe and document the medical condition of the member to support the need for nursing skilled services in the home health plan of care

Conduct periodic visits to assess and treat the symptoms related to the condition

Teach proper, reasonable and necessary care although the member is stable and there is an expectation that the care will be needed for a long and indefinite period

Describe the member's current medical condition at each home visit

Document the need for continued skilled nursing services

Documentation

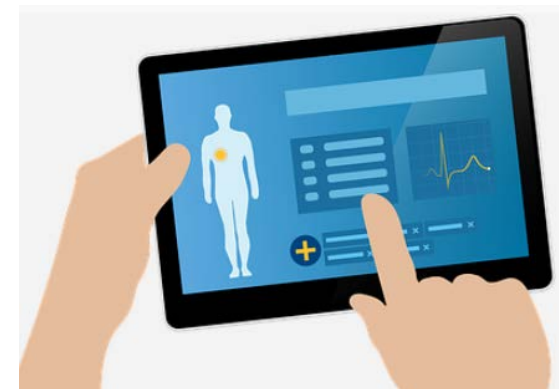
- ❑ Documentation needs to justify the necessity of the skilled services provided

- ❑ Vague phrases are insufficient to establish coverage:
 - “Patient tolerated treatment well”
 - “Continue with POC”
 - “Patient remains stable”



Documentation ...

- ❑ Coverage determinations must consider the *entirety* of the clinical evidence in the member's record
- ❑ Justification for treatment would include:
 - Objective evidence or a clinically supportable statement of expectation that maintenance therapy by a licensed clinician is necessary to maintain, prevent, or slow further deterioration of the functional status



Claims Review



- ❑ To ensure beneficiaries receive the care to which they are entitled, CMS will engage in accountability measures of claims:
 - Review of a random sample of SNF, Home Health and Outpatient coverage decisions to determine overall trends and identify any problems
 - Review of individual claims determinations that may not have been made in accordance with the principles set forth in the settlement agreement



Post Training Knowledge Recap

Knowledge Recap-1



The important issue in the *Jimmo v. Sebelius* settlement is that Medicare members can continue to receive therapies to maintain, prevent or slow further deterioration of their functional status when improvement is *not* expected.

- True
- False

1 - Answer

Medicare members are eligible for therapy services to maintain their functional status including when improvement is not expected.



TRUE



FALSE

Knowledge Recap-2



A member enrolled in Medicare is covered to receive the following services at a Skilled Nursing Facility:

Select all that apply.

- A. Physical Therapy
- B. Maintenance such as bathing and feeding
- C. Intravenous antibiotics
- D. Skills that must be provided by a Registered/Practical Nurse

2 - Answer

A member enrolled in Medicare is covered to receive the following services at a Skilled Nursing Facility:

- Physical Therapy
- Maintenance such as bathing and feeding
- Intravenous antibiotics
- Skills that must be provided by a Registered/Practical Nurse

Knowledge Recap - 3



Medicare coverage criteria for Skilled Therapy services includes an assessment of the member's condition that demonstrates therapy is needed for the safety and maintenance of functional ability

- True
- False

3 - Answer

Medicare coverage criteria for Skilled Therapy services includes an assessment of the member's condition that demonstrates therapy is needed for safety and maintenance of functional ability



TRUE



FALSE

Questions



Questions and Answers Session:
JimmoCall@cms.hhs.gov

Thank You



Resources

- For more information about the MLN Connects National Provider Call Program, please visit: <http://cms.gov/Outreach-and-Education/Outreach/NPC/index.html>
- For more information about the Medicare Learning Network (MLN), please visit: <http://cms.gov/Outreach-and-Education/Medicare-Learning-NetworkMLN/MLNGenInfo/index.html>

