



MEDICARE ENROLLMENT & APPEALS GROUP

DATE: February 13, 2024

TO: All Medicare Advantage Organizations

FROM: Jerry Mulcahy
Director, Medicare Enrollment and Appeals Group

SUBJECT: REMINDER: Jimmo Settlement Coverage and Training Policies

This memorandum is to remind Medicare Advantage Organizations (“MAOs”) of certain skilled therapy coverage and training policies related to the *Jimmo v. Sebelis* Settlement Agreement. CMS is supplying the following information and links to materials for MAOs to use to refresh and/or train staff and contracted providers to ensure Medicare Advantage services are provided – and organization determinations and reconsiderations are adjudicated accurately and appropriately – in accordance with existing Medicare policy.

The Centers for Medicare & Medicaid Services (CMS) reminds MAOs of the Jimmo Settlement Agreement (January 2013), which clarified that the Medicare program covers skilled nursing care and skilled therapy services under Medicare’s skilled nursing facility, home health, and outpatient therapy benefits when a beneficiary needs skilled care in order to maintain function or to prevent or slow decline or deterioration (provided all other coverage criteria are met). Specifically, the Jimmo Settlement required manual revisions to restate a “maintenance coverage standard” for both skilled nursing and therapy services under these benefits:

- Skilled nursing services are covered where such skilled nursing services are necessary to maintain the patient's current condition or prevent or slow further deterioration, so long as the beneficiary requires skilled care for the services to be safely and effectively provided.
- Skilled therapy services are covered when an individualized assessment of the patient's clinical condition demonstrates that the specialized judgment, knowledge, and skills of a qualified therapist (“skilled care”) are necessary for the performance of a safe and effective maintenance program. Such a maintenance program to maintain the patient's current condition or to prevent or slow further deterioration is covered so long as the beneficiary requires skilled care for the safe and effective performance of the program.

The Jimmo Settlement may have reflected a change in practice for those providers, adjudicators, and contractors who may have erroneously believed that the Medicare program covers nursing and therapy services under these benefits only when a beneficiary is expected to improve. The Settlement is consistent with the Medicare program’s regulations governing maintenance nursing and therapy in

skilled nursing facilities, home health services, and outpatient therapy (physical, occupational, and speech) and nursing and therapy in inpatient rehabilitation hospitals for beneficiaries who need the level of care that such hospitals provide.

CMS offers MAOs the following materials for use in conducting training of internal staff and contracted providers. Additionally, CMS encourages MAOs to review all existing internal policies, standard operating procedures, guidance, and templates related to skilled therapy coverage to ensure those items comport with current Medicare policy and guidelines.

Links for Education:

<https://www.cms.gov/medicare/settlements/jimmo> (See Important Message About the Jimmo Settlement at top of page)

<https://www.cms.gov/center/special-topic/jimmo-settlement/faqs>

https://www.cms.gov/medicare/medicare-fee-for-service-payment/snfpps/downloads/jimmo_fact_sheet2_022014_final.pdf

[CR 8458 \(PDF\)](#): Manual Updates to Clarify SNF, HH, and OPT Coverage Pursuant to Jimmo v. Sebelius Settlement Agreement

[CR 8644 \(PDF\)](#): Manual Updates to Clarify Skilled Nursing Facility Advanced Beneficiary Notice (SNF ABN) Requirements Pursuant to Jimmo v. Sebelius Settlement Agreement

Medicare Benefit Policy Manual link (See Chapters 1, 7, 8 and 15)

<https://www.cms.gov/regulations-and-guidance/guidance/manuals/internet-only-manuals-items-items/cms012673>

Medicare Learning Network Resource page: <https://www.cms.gov/training-education/medicare-learning-network/resources-training>

This memorandum is not to be construed as a change to Medicare coverage policies nor a comprehensive summary of the Jimmo Settlement Agreement or Medicare skilled therapy coverage requirements. MAOs are responsible for independently reviewing and implementing Medicare coverage policies. Any questions on this subject may be directed to the Part C Appeals Mailbox at: <https://appeals.lmi.org/DAPMailbox>