

**Discharge or Episode of Care?
CMS Redefines the Interrupted Stay Rule for LTACHS**

By

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Introduction

When CMS first implemented the prospective payment system for long term acute care hospitals (“LTACHs”) in August, 2002, it expressed a concern that some LTACHs were discharging patients to other inpatient facilities and then readmitting them to the LTACH for reasons that were motivated more by financial concerns than medical necessity. At the same time, CMS stated that it did not wish to prevent LTACHs from pursuing alternative sources of care where sound medical judgment suggested that the patient required emergency surgery at an acute care hospital, would appear to benefit from a specific therapy regimen at an inpatient rehabilitation facility (“IRF”), or had improved and could be appropriately cared for at a skilled nursing facility (“SNF”).

To accommodate these competing concerns, CMS established its original “interrupted stay” policy for LTACHs. The original rule stated that, if an LTACH discharged a patient to a specified facility and then readmitted that patient within a defined period of time, the LTACH stay would be considered interrupted and the return to the LTACH would be considered part of the original admission, generating only a single discharge from the LTACH. The relevant time periods governing whether a stay was considered interrupted, varied by the facility to which the LTACH patient was discharged. Beginning on the calendar day of discharge and ending on the calendar day of readmission the LTACH, these time periods were:

- For an acute care hospital: up to 9 consecutive days;
- For an IRF: up to 27 consecutive days; and
- For a SNF (including hospital swing beds): up to 45 consecutive days.

If a patient was returned to the LTACH within a relevant time period, the LTACH was required to either cancel its original bill to Medicare or do a debit/credit adjustment with its fiscal intermediary. In any case, the acute care hospital, IRF or SNF was permitted to submit its own bill to Medicare for the care that it provided to the patient. For purposes of determining the patient’s length of stay,

the patient's LTACH length of stay paused on the date of discharge to the other facility and resumed upon readmission to the LTACH.

The New 3-Day or Less Interruption of Stay

During the two years that the LTACH PPS has been in effect, CMS found what it believed was evidence of certain LTACHs discharging the patient to his or her home, solely for the purpose of enabling the patient to receive surgery, outpatient treatment, or tests that could be billed to Medicare separately from the LTACH bill and then quickly readmitting that patient to the LTACH. In CMS' view, such services are properly part of the LTACH stay and should be paid for by the LTACH under a contractual arrangement with the other provider. To CMS, the quick discharge and readmission again suggested a scenario that was motivated more by financial concerns than patient care.

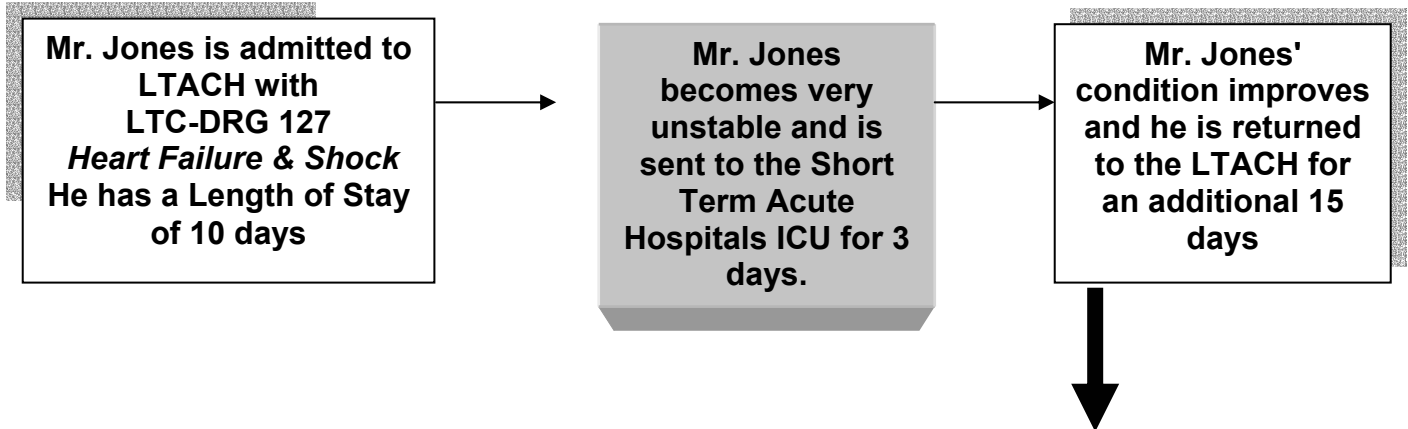
As a result, effective July 1, 2004, CMS has implemented a new 3-day or less interruption of stay policy that supplements, but does not replace, the original policy. The new policy applies if the patient is discharged from the LTACH to an acute care hospital, IRF, SNF, or home and is readmitted to the LTACH within 3 calendar days of the original discharge. However, unlike the original policy, the 3-day rule applies only if the patient, during that 3-day period, receives services that would otherwise be billable to Medicare. Thus, in the unlikely scenario where the patient is discharged to home, receives no medical care, but returns to the LTACH within three days, the patient is considered to have two separate admissions to the LTACH, and the days away from the LTACH do not count toward the patient's original length of stay. The patient, instead, begins a new length of stay upon readmission.

A more typical scenario would be where a patient is admitted to the long term acute care hospital, and, during the stay, the patient's condition deteriorates or the patient has a need to be moved to the short term acute care hospital. In 3 days or less the patient is returned to the long term acute care hospital. Under this rule, all charges incurred in the acute care hospital are the responsibility of the long term acute care hospital. The short term acute care hospital bills the long term acute care hospital "under arrangement" for any services it provided.

In this case the short term acute hospital does not bill Medicare for these services. The long term acute care hospital receives one DRG payment for those days prior and after the short term acute episode. For July 1, 2004, through June 30, 2005, only there is only one exception: If while in the short term acute care hospital the patient is classified under a surgical DRG, then the short term acute hospital does bill for under this DRG.

In either case the 3 days or less the patient is in the short term acute care hospital counts in the LTACH's length of stay. Example One below demonstrates how the new rule would apply to a typical 3-day or less interruption:

**Example One:
3 Days or Less**
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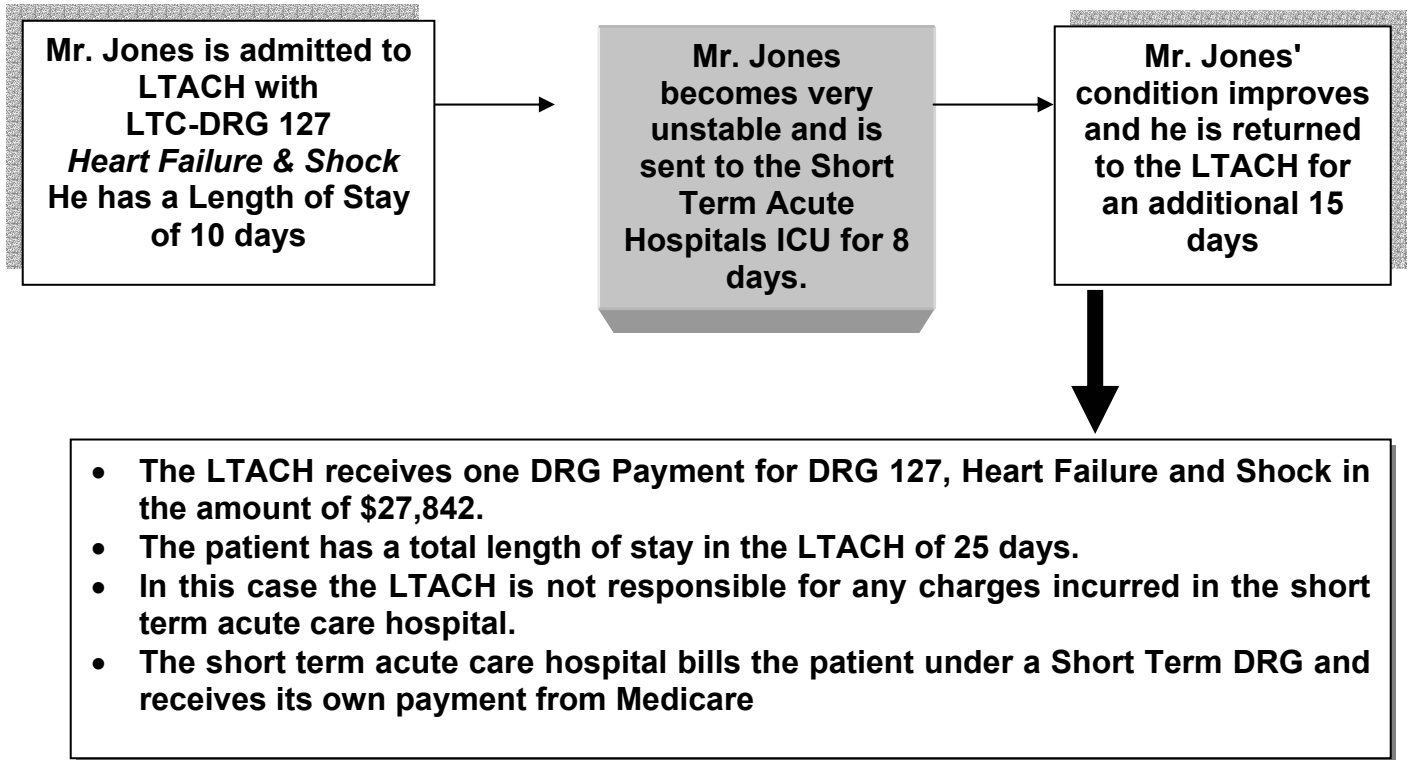
- The LTACH receives one DRG Payment for DRG 127, Heart Failure and Shock in the amount of \$27,842.
- The patient has a total length of stay in the LTACH of 28 days.
- The LTACH has an “under arrangement agreement” with the short term acute hospital for the care their patient received in the short term hospital. The short term hospital bills the LTACH for these services.
- The only exception to the LTACH being responsible for the acute services is if the patient has a condition which qualifies under a surgical DRG.
- The same rule applies for any outpatient services the patient may have received if he was sent home.
- If the patient receives no medical care during the interruption , the 3 days do not count in the LTACH length of stay.

Greater than 3 days but 9 days or less

As noted above, the new 3-days or less policy supplements, but does not replace, the original interrupted stay rule. Thus, if a patient is admitted to the LTACH, but has to be admitted to the short term acute hospital, reference must be made to the original 9-day rule. For example, the patient stays in the short term acute at least 4 days but up to and including 9 days, then is transferred back to the LTACH. In this instance the stay prior to and after the short term episode is seen as one stay and is paid one DRG in the long term acute care hospital. However in this case the short term acute care hospital also bills Medicare for the treatment the patient receives in the short term hospital. The length of stay calculation for the LTACH is resumed upon readmission to the LTACH. Those days prior to the short term episode and after are added together for the patient’s total length of stay. In this case the LTACH receives one DRG

payment and the short term hospital receives one DRG payment from this patient as is demonstrated in Example Two:

**Example Two:
Greater than 3 Days but 9 Days or Less**
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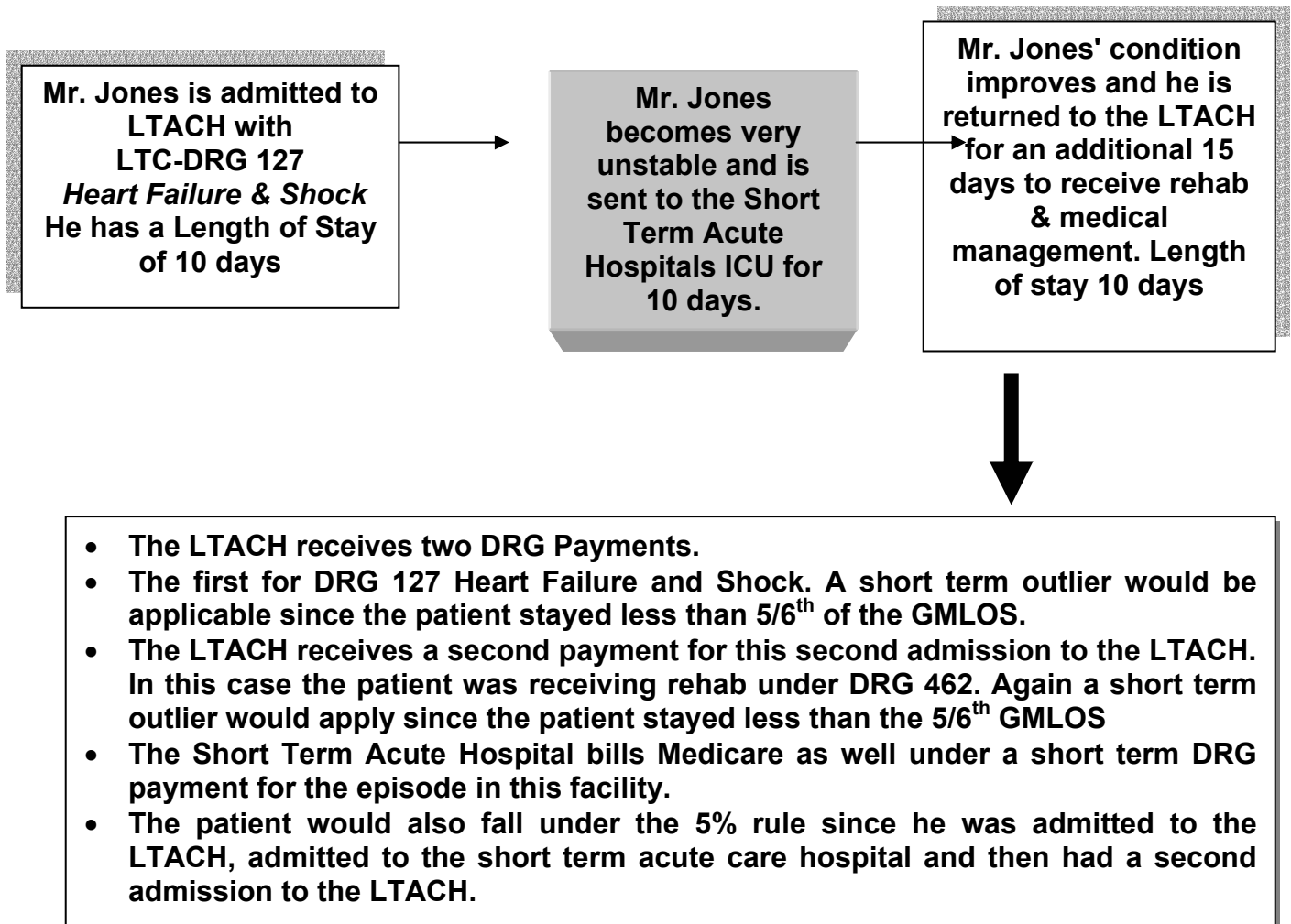


Greater than 9 days

If the patient's stay in the short term acute hospital is greater than 9 days, the original rule also governs payment. For example, the patient is admitted to the long term acute care hospital but has a condition where they must be admitted to the short term acute care hospital, but, in this case, the patient stays in the short term acute care hospital more than 9 days. The first stay in the LTACH is billed under one DRG and the patient is considered discharged. The short term acute hospital then bills Medicare under its own short-term DRG. When the patient returns to the LTACH, the second stay is considered another admission and the LTACH bills under a second LTACH DRG. The length of stay count at the LTACH is broken into two separate lengths of stay. This scenario also falls under the 5 percent rule where there can be no more than 5 percent of the LTACH's

patients transferred back and forth between the LTACH and the short term acute care hospital during a single LTACH cost reporting period. Example Three explains this scenario:

Example Three: More than 9 days
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As started earlier, these three scenarios not only apply to patients going from the long term acute care hospital to the short term acute care hospital but the rule applies when the patient is moved from the LTACH to a skilled nursing facility, or an inpatient rehabilitation facility. However the length of stay at each facility that would trigger operation of the interrupted stay rule is correspondingly longer than the 9-day period that is applied when the LTACH patient goes to a short term acute care hospital. If the LTACH patient goes to a comprehensive inpatient rehabilitation facility for up to 27 days before returning to the LTACH, it is considered an interrupted stay. For a SNF (or hospital swing bed) the relevant length of stay is 45 days.

In conclusion, while, the new 3-day interrupted stay adds a new level of complexity that LTACH physicians, administrators, and case managers must take into account when arranging off-site care for their patients, the news is far from being all bad. Although the new rule clarifies that brief, off-site care remains the financial responsibility of the LTACH, it also emphasizes that the patient's length of stay count in the LTACH continues during one, two, or three days away. For LTACH administrators who are always rightly concerned with this key aspect of compliance, this will indeed be welcome news.

About the Author:

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