

PUBLIC HEALTH CODE (EXCERPT)
Act 368 of 1978

333.22210 Certificate of need for extended care services program; application; criteria; modification; fee prohibited; compliance; report; discrimination prohibited; exercise of rights; written acknowledgment; forms; additional rights; violation; penalty; certificate required; definitions.

Sec. 22210.

(1) Subject to this section, a hospital that applies to the department for a certificate of need and meets all of the following criteria shall be granted a certificate of need for an extended care services program with up to 10 licensed hospital beds:

(a) Is eligible to apply for certification as a provider of extended care services through the use of swing beds under section 1883 of title XVIII, 42 USC 1395tt.

(b) Subject to subsection (2), has fewer than 100 licensed beds not counting beds excluded under section 1883 of title XVIII, 42 USC 1395tt.

(c) Does not have uncorrected licensing, certification, or safety deficiencies for which the department or the bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, or both, has not accepted a plan of correction.

(2) After October 1, 1990, the criteria set forth in subsection (1)(b) may be modified by the commission, using the procedure set forth in section 22215(3). The department shall not charge a fee for processing a certificate of need application to initiate an extended care services program.

(3) A hospital that is granted a certificate of need for an extended care services program under subsection (1) shall comply with all of the following:

(a) Not charge for or otherwise attempt to recover the cost of a length of stay for a patient in the extended care services program that exceeds the length of time allowed for post-hospital extended care under title XVIII.

(b) Admit patients to the extended care services program only under an admissions contract approved by the department.

(c) Subject to subdivision (f), not discharge or transfer a patient from a licensed hospital bed other than a hospital long-term care unit bed and admit that patient to the extended care services program unless the discharge or transfer and admission is determined medically appropriate by the attending physician.

(d) Permit access to a representative of an organization approved under section 21764 to patients admitted to the extended care services program, for all of the purposes described in section 21763.

(e) Not allow the number of patient days for the extended care services program to exceed the equivalent of 1,825 patient days for a single state fiscal year.

(f) Not provide extended care services in a swing bed if the hospital owns or operates a hospital long-term care unit that has beds available at the time a patient requires admission for extended care services.

(g) Not charge or collect from a patient admitted to the extended care services program, for services rendered as part of the extended care services program, an amount in excess of the reasonable charge for the services as determined by the secretary of the United States Department of Health and Human Services under title XVIII.

(h) Assist a patient who has been denied coverage for services received in an extended care services program under title XVIII to file an appeal with the Medicare recovery project operated by the office of services to the aging.

(i) Operate the extended care services program pursuant to this section and the provisions of section 1883 of title XVIII, 42 USC 1395tt, that are applicable to the extended care services program.

(j) As part of the hospital's policy describing the rights and responsibilities of patients admitted to the hospital, as required under section 20201, incorporate all of the following additional rights and responsibilities for patients in the extended care services program:

(i) A copy of the hospital's policy must be provided to each extended care services patient on admission, and the staff of the hospital must be trained and involved in the implementation of the policy.

(ii) Each extended care services patient may associate and communicate privately with persons of his or her choice. Reasonable, regular visiting hours, which must take into consideration the special circumstances of each visitor, must be established for extended care services patients to receive visitors. An extended care services patient may be visited by the patient's attorney or by representatives of the departments named in section 20156 during other than established visiting hours. Reasonable privacy must be afforded for visitation of an extended care services patient who shares a room with another extended care services patient. Each extended care services patient must have reasonable access to a telephone.

(iii) An extended care services patient is entitled to retain and use personal clothing and possessions as space permits, unless medically contraindicated, as documented by the attending physician in the medical record.

(iv) An extended care services patient is entitled to the opportunity to participate in the planning of his or her

medical treatment, including the development of the discharge plan under subdivision (l). An extended care services patient must be fully informed by the attending physician of the extended care services patient's medical condition, unless medically contraindicated, as documented by a physician in the medical record. Each extended care services patient must be afforded the opportunity to discharge himself or herself from the extended care services program.

(v) An extended care services patient is entitled to be fully informed either before or at the time of admission, and during his or her stay, of services available in the hospital and of the related charges for those services. The statement of services provided by the hospital must be in writing and must include those services required to be offered on an as needed basis.

(vi) A patient in an extended care services program or a person authorized in writing by the patient may, on submission to the hospital of a written request, inspect and copy the patient's personal or medical records. The hospital shall make the records available for inspection and copying within a reasonable time, not exceeding 7 days, after the receipt of the written request.

(vii) An extended care services patient has the right to have his or her parents, if the extended care services patient is a minor, or his or her spouse, next of kin, or patient's representative, if the extended care services patient is an adult, stay at the hospital 24 hours a day if the extended care services patient is considered terminally ill by the physician responsible for the extended care services patient's care.

(viii) Each extended care services patient must be provided with meals that meet the recommended dietary allowances for that patient's age and sex and that may be modified according to special dietary needs or ability to chew.

(ix) Each extended care services patient has the right to receive a representative of an organization approved under section 21764, for all of the purposes described in section 21763.

(k) Achieve and maintain Medicare certification under title XVIII.

(l) Establish a discharge plan for each extended care services patient who is admitted to the extended care services program. In the discharge plan, the hospital shall emphasize patient choice in receiving extended care services in the most appropriate and least restrictive setting. The hospital shall provide to the patient or his or her authorized representative a copy of the discharge plan not later than 3 days after the patient is admitted to the extended care services program.

(4) Beginning January 1, 2021, a hospital that is granted a certificate of need for an extended care services program under subsection (1) shall submit a report to the department in a form and manner prescribed by the department that includes, but is not limited to, all of the following information:

(a) The total number of patients admitted to the hospital's extended care services program during the period specified by the department.

(b) The total number of extended care services patient days for the period specified by the department.

(c) Information that identifies the type of care to which patients in the extended care services program are released.

(d) Any other information considered necessary to the department to evaluate the extended care services program.

(5) A hospital or the owner, an administrator, an employee, or a representative of the hospital shall not discharge, harass, or retaliate or discriminate against an extended care services patient because the extended care services patient has exercised a right described in subsection (3)(j).

(6) In the case of an extended care services patient, the rights described in subsection (3)(j)(iv) may be exercised by the patient's representative, as that term is defined in section 21703.

(7) An extended care services patient must be fully informed, as evidenced by the extended care services patient's written acknowledgment, before or at the time of admission and during stay, of the rights described in subsection (3)(j). The written acknowledgment must provide that if an extended care services patient is adjudicated incompetent and not restored to legal capacity, a person designated by the extended care services patient shall exercise the rights and responsibilities set forth in subsection (3)(j). The hospital shall provide proper forms for the extended care services patient to provide for the designation of this person at the time of admission.

(8) Subsection (3)(j) does not prohibit a hospital from establishing and recognizing additional rights for extended care services patients.

(9) A hospital that violates subsection (3) is subject to the penalty provisions of section 20165.

(10) A person shall not initiate an extended care services program without first obtaining a certificate of need under this section.

(11) As used in this section:

(a) "Extended care services program" means a program by a hospital to provide extended care services to a patient through the use of swing beds under section 1883 of title XVIII, 42 USC 1395tt.

(b) "Hospital long-term care unit" means that term as defined in section 20106.

History: Add. 1988, Act 308, Eff. Oct. 1, 1988 ;-- Am. 1990, Act 260, Imd. Eff. Oct. 15, 1990 ;-- Am. 1993, Act 88, Imd. Eff. July 9, 1993 ;-- Am. 2006, Act 195, Imd. Eff. June 19, 2006 ;-- Am. 2011, Act 51, Eff. Dec. 6, 2011 ;-- Am. 2014, Act 165, Imd. Eff. June 12, 2014 ;--

Am. 2020, Act 333, Imd. Eff. Dec. 29, 2020

Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular Name: Act 368