

LONG TERM
CARE
OMBUDSMAN

FACT SHEET

**Therapeutic Leave
Days**

Under Michigan law, a resident of a nursing home can leave the home for a number of days for non-medical reasons, then return:

If a patient is temporarily absent for therapeutic reasons as approved by a physician, the nursing home shall hold the bed open for 18 days, if there is a reasonable expectation that the patient will return within that period of time and the nursing home receives payment for each day during the absent period. Temporary absences for therapeutic reasons are limited to 18 days per year." MCL 333.21777(2).

There is some ambiguity in the statute, as there is no definition of "therapeutic reasons," and no definition of "per year." It might also appear the statute allows only for one continuous absence.

The first two issues are clarified in the "Michigan State Plan Under Title XIX of the Social Security Act" (a.k.a State Medicaid Plan).

The relevant section of the State Medicaid Plan is entitled "Payment for Reserved Beds During a Patient's Absence from an Inpatient Facility." Section II, in part:

- A. Therapeutic Leave Days - payment is subject to the following conditions:
1. The [Medicaid] beneficiary is away for therapeutic and non-medical reasons (for example, home visits).
 2. Payment for reserving a bed for a beneficiary's therapeutic leave days may not exceed payments for 18 days over the most recent 12-month period. "
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 5. The beneficiary's written plan of care provides for 'home visits' (defined as visits with friends and/or relatives, i.e., therapeutic leave days.

Thus, a therapeutic leave must be for non-medical reasons, and the 18-day limitation is based on the prior 365-day period, and not a calendar year.

The third issue is clarified in the Medicaid Provider Manual, in Section 10.2.B. It reads, in part:

There is no limit to the number of therapeutic leave days that may be reimbursed at one time as long as the total does not exceed 18 days in a 365 day period (not the calendar year). For example, if a resident goes on a 5-day family vacation beginning November 9, 2010, that resident has 13 therapeutic leave days remaining until November 8, 2011.

Thus, an individual could take one 18-day leave, or 18 one-day leaves, or any other combination of 18 days.

The Medicaid Provider Manual also (implicitly) indicates the term "therapeutic leave days" is a misnomer:

A resident is counted in the facility census if they (sic) are in the facility at midnight. If the beneficiary is out of the facility on therapeutic leave at midnight, that day must be counted as a therapeutic leave day.

So, the allowance is really for "therapeutic leave nights."

If a resident left a nursing home for therapeutic leave on Tuesday at 7 a.m., and returned on Wednesday at 11:00 p.m., that would constitute one leave day, not two.

A resident could leave a nursing home at 7 a.m. and return the same day at 11:00 p.m., without using a therapeutic leave day. The resident would not need physician approval, and the absence could be for any reason, e.g., a medical appointment.

The State Plan allows for additional leave days beyond 18 days for "special family occasions (e.g., reunions, weddings, graduations, birthdays, religious rites.)" These additional days require "prior authorization" (presumably from the Department of Community Health).

This fact sheet only provides general information about possible options. You should seek legal advice from a qualified person to help you make arrangements that best meet your needs. For more information please call our toll free number, 1-866-485-9393.