

Title 23: Division of Medicaid

Part 207: Institutional Long Term Care

Part 207 Chapter 2: Nursing Facility

Rule 2.15: Ventilator Dependent Care

- A. The Division of Medicaid defines ventilator dependent care (VDC) as mechanical ventilation for life support designed to replace and/or support normal ventilatory lung function.
- B. Effective January 1, 2015, the Division of Medicaid provides an established reimbursement per diem rate in addition to the standard per diem rate to Mississippi nursing facilities, excluding out-of-state nursing facilities and Nursing Facilities for the Severely Disabled (NF-SD), for residents requiring VDC services. Effective January 1, 2015, Mississippi nursing facilities will receive the following reimbursement for a ventilator dependent resident:
 - 1. A standard per diem, and
 - 2. A ventilator per diem.
- C. Mississippi nursing facilities providing VDC services must file a VDC Addendum to its current provider agreement and it must be approved by the Division of Medicaid.
 - 1. The VDC Addendum must include required attestations regarding the nursing facility requirements consistent with Miss. Admin. Code Part 207, Rule 2.15 including, but not limited to:
 - a) Number of beds designated to serve ventilator dependent residents,
 - b) Required equipment,
 - c) Staffing ratios for the VDC resident(s), and
 - d) Documentation of a formal relationship between the nursing facility and a local hospital for the emergency care of all ventilator dependent residents.
 - 2. The Division of Medicaid reserves the right to approve VDC Addendums at its discretion based on:
 - a) Geographic coverage,
 - b) Market saturation, and/or
 - c) The ability of the nursing facility to demonstrate compliance with certification requirements.

3. The approval of the VDC Addendum is dependent upon:
 - a) Successful completion of the VDC Addendum and submission of required documents,
 - b) Establishment of policies to support the operations of VDC services,
 - c) Successful completion of an on-site visit by Mississippi State Department of Health (MSDH), Health Facilities Licensure and Certification (HFLC), and
 - d) The nursing facility's completion of all other required documents applicable to providing VDC services as requested by HFLC or the Division of Medicaid.
 4. The Division of Medicaid will close a VDC Addendum if the provider fails to submit any requested information or documentation within thirty (30) days of a request by the Division of Medicaid. Once closed, a provider is not eligible to re-apply for three (3) months.
- D. The Division of Medicaid reserves the right to terminate a nursing facility's provider agreement, including the VDC Addendum, based on failure to comply with Administrative Code requirements and/or state licensure and federal requirements.
1. Upon receipt of a termination notice, the nursing facility has ten (10) days to submit a transfer plan for each resident which fully addresses their medical, social, and safety support needs in anticipation of and throughout the transfer process.
 2. Upon the Division of Medicaid's approval of the transfer plan, all transfers resulting from the termination of the provider agreement must be completed within thirty (30) days from the date of the termination notice.
 3. Providers notified of termination may appeal this decision pursuant to Miss. Admin. Code Part 300.
 4. The Division of Medicaid reserves the right to enforce an immediate transfer of ventilator dependent residents if the nursing facility's compliance failure is so egregious in nature that a resident's safety is threatened.
 5. Once terminated, the provider may not reapply to provide VDC services for one (1) year from the date of termination.
- E. Nursing facilities providing services to ventilator dependent residents must:
1. Meet all federal and state regulations governing nursing facilities.
 2. Provide residents in need of VDC services with the following licensed staff which cannot be included as part of the HFLC nursing facility state minimum staffing requirements:

- a) One (1) registered nurse (RN) or one (1) licensed respiratory therapist (RT) must be assigned the primary responsibility for the VDC services and ventilator dependent residents and be available twenty-four (24) hours a day seven (7) days a week.
 - b) The following nurse staffing ratios must be met for VDC services and ventilator dependent residents:
 - 1) One (1) RN for every ten (10) ventilator dependent residents (1:10),
 - 2) One (1) RN and one (1) licensed practical nurse (LPN) for every eleven (11) to fourteen (14) ventilator dependent residents, and
 - 3) Two (2) RNs for every fifteen (15) to twenty (20) ventilator dependent residents.
 - c) One (1) in-house licensed respiratory therapist (RT) onsite twenty-four (24) hours a day seven (7) days a week.
3. Must maintain separate staffing records for the nursing staff and respiratory staff responsible for the ventilator dependent residents.
 4. Ensure physician visits are conducted in accordance with the federal and state regulations for nursing facilities.
 5. Must provide adequate equipment and supplies for the provision of VDC services including, but not limited to:
 - a) Primary ventilators,
 - b) Back up ventilators,
 - c) Emergency batteries,
 - d) Oxygen tanks,
 - e) Suction machines,
 - f) Nebulizers,
 - g) Manual resuscitator,
 - h) Pulse oximetry monitoring equipment,
 - i) Nutrient infusion pumps, and
 - j) Any medically necessary durable medical equipment (DME) and supplies.

6. Must have an audible, redundant external alarm system located outside the resident's room to alert of ventilator failure.
7. Must have written policies and procedures for ventilator dependent residents including, but not limited to:
 - a) Ventilator monitoring expectations,
 - b) Routine maintenance of ventilator equipment,
 - c) Specific staff training related to ventilator care and operation,
 - d) Staffing requirements,
 - e) Infection control program for:
 - 1) Ventilator dependent residents, to include:
 - (a) Actions to investigate, control, and prevent infections,
 - (b) Isolation procedures,
 - (c) Standard precautions,
 - 2) Maintenance and care requirements of equipment and disposal of supplies.
8. Place individuals admitted with any contagious diagnoses related to a respiratory illness in isolation according to the Centers for Disease Control (CDC) and requirements under 42 C.F.R. § 483.65.
9. Provide staff education and in-service training to direct and indirect care staff.
 - a) Required training must be completed prior to the provision of care, including infection control procedures and addressing the needs of a ventilator dependent resident.
 - b) Required training must be conducted annually to all staff provided by a:
 - 1) Licensed RT, or
 - 2) Board certified pulmonologist.
 - c) Additional training of nursing staff is required to be conducted by a full-time RN who has completed documented training in the care of ventilator dependent individuals by an RT or a board certified pulmonologist. This RN will be responsible for:

- 1) Quarterly and on-going training to all VDC nursing staff as evidenced by documentation.
 - 2) Providing initial in-service training for ten (10) work days to all direct care and indirect care staff assuring they are competent to care for VDC residents.
10. Ensure the nursing facility's Emergency Plan includes:
- a) Provisions for continuous operation of ventilator equipment during power outages and/or ventilator equipment failure, and
 - b) A revised Emergency Operations Plan approved by the MSDH Office of Emergency Planning and Response which includes the VDC services.
11. Execute a written agreement with a local acute care hospital:
- a) Located within twenty (20) miles or thirty (30) minutes of an Emergency Department with the capability to treat emergencies for beneficiaries with ventilator dependency.
 - b) With provisions for twenty-four (24) hour access to VDC services.
 - c) Documenting a formal relationship between the nursing facility and a local acute care hospital that confirms the ability and willingness of the hospital to serve the acute care needs of residents requiring mechanical ventilation:
 - 1) On an as-needed basis, and
 - 2) In emergency situations when the entire VDC population of the unit/ventilator dependent residents must be temporarily transferred to the hospital.
 - 3) The agreement should outline transfer logistics and financial responsibilities.
- F. Residents in a nursing facility receiving VDC services must:
1. Have long-term ventilator dependency greater than six (6) hours per day, for more than twenty-one (21) consecutive days prior to admission as a VDC resident.
 2. Be dependent on mechanical ventilation via a tracheostomy for at least fifty percent (50%) of each day or continuous mechanical ventilation via a tracheostomy for at least six (6) hours each day while in need of VDC services except during the weaning process.
 3. Require daily respiratory intervention, including, but not limited to, oxygen therapy, chest physiotherapy or deep suctioning.
 4. Be medically stable and not require acute care services prior to the transfer to the nursing facility.

5. Be prior authorized by the Division of Medicaid or the Utilization Management/Quality Improvement Organization (UM/QIO) for admission and recertified as required by the Division of Medicaid or UM/QIO to determine if the resident's medical condition warrants VDC services.
 - a) The nursing facility must provide documentation of continued medical necessity and weaning attempts to the Division of Medicaid or UM/QIO.
 - b) The resident is considered appropriate for VDC services until the weaning process is completed.
- G. The Division of Medicaid does not cover admissions as a VDC resident for those who only require continuous positive airway pressure (CPAP) or bi-level positive airway pressure (BiPAP).
- H. The Division of Medicaid approves out-of-state nursing facility placements for ventilator dependent beneficiaries when all the following are met:
 1. The nursing facility is a Mississippi Medicaid Provider,
 2. All efforts for in-state placement are exhausted,
 3. The transferring facility provides documentation of denial statements from Mississippi nursing facilities unable to care for the beneficiary or there are no nursing facilities beds available in Mississippi to treat VDC residents.
 4. The needs of the ventilator dependent beneficiary cannot be met in the state of Mississippi.
 5. The Division of Medicaid must prior authorize for medical necessity and approval must be obtained from the Executive Director,
 6. The beneficiary is:
 - a) Mississippi Medicaid eligible.
 - b) Eligible for long-term care placement.
 - c) Ventilator dependent and meets all the following requirements:
 - 1) The Division of Medicaid does not cover admission or recertification as a VDC resident for those who only require CPAP or BiPAP.
 - 2) Medically stable and not require acute care services prior to the transfer to the nursing facility.

- 3) Has long-term ventilator dependency greater than six (6) hours per day, for more than twenty-one (21) consecutive days prior to admission as a VDC resident.
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 - (a) The nursing facility must provide documentation of continued medical necessity and weaning attempts to the Division of Medicaid.
 - (b) The resident is considered appropriate for VDC services until the weaning process is completed.
7. Completion of an admission assessment as required by federal and state regulations and/or the Division of Medicaid.
- I. Beneficiaries admitted to an out-of-state nursing facility receiving reimbursement from Medicare must obtain approval from the Division of Medicaid prior to receiving Medicaid reimbursement.
- J. The Division of Medicaid reimburses out-of-state nursing facilities the lesser of the Medicaid rate of the domicile state or the maximum Mississippi Medicaid rate for their classification; however, the rates may be negotiated. The negotiated rate for nursing facilities may not exceed the higher of the Medicaid rate of the domicile state or the maximum Mississippi Medicaid rate for nursing facilities, as case mix adjusted. The out-of-state facility must:
1. Provide an initial and quarterly Minimum Data Set (MDS) assessment for review,
 2. Provide a desk audit to determine the category classification using the current calculation for reimbursement, and
 3. Complete all required Omnibus Budget Reconciliation Act (OBRA) MDS assessments.

Source: Miss. Code Ann. §§ 43-13-117, 43-13-121; SPA 15-004.

History: Revised eff. 06/01/2024. Revised to correspond with MS SPA 22-0006 (eff. 05/01/2022) eff. 07/01/2022; Revised eff. 07/01/2021; Revised eff. 04/01/2017. Revised to correspond with SPA 15-004 (eff. 01/01/2015) eff. 01/02/2015.

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