

Decubitus Care: Court Upholds Sanctions Against Skilled Nursing Facility For Violations Of Medicare Standards.

The US Court of Appeals for the Tenth Circuit recently upheld the Health Care Financing Administration (HCFA) which imposed a \$1300 per-day fine on a skilled nursing facility for not complying with Medicare standards.

The specific issue was HCFA's standard for pressure sores. That standard is contained in the Code of Federal Regulations, Title 42, Section 483.25(c):

Sec. 483.25 Quality of Care

Each resident must receive and the facility must provide the necessary care and services to attain or maintain the highest practicable physical, mental, and psychosocial well-being, in accordance with the comprehensive assessment and plan of care.

(c) Pressure sores. Based on the comprehensive assessment of a resident, the facility must ensure that -

(1) A resident who enters the facility without pressure sores does not develop pressure sores unless the individual's clinical condition demonstrates that they were unavoidable; and

(2) A resident having pressure sores receives necessary treatment and services to promote healing, prevent infection and prevent new sores from developing.

The court ruled the facility had not complied with a plan of correction it was required to implement after a state inspection. The plan called for the facility to do all of the following:

Decubitus Slow To Heal: Court Throws Out Patient's Civil Law Suit Alleging Negligence.

It was documented in the patient's hospital records he was aware of the formation of a decubitus ulcer on his right heel in September.

The records contain notes of the dressing on the wound being changed frequently.

The records show the patient was taught to avoid pushing on his right heel to reposition himself and understood the teaching.

The patient did not initiate the legal process for a civil negligence claim, by demanding a medical review panel consider his case, until October of the following year, beyond the one-year statute of limitations.

COURT OF APPEAL OF LOUISIANA, 2000.

(a) Correct pressure sore care and documentation problems.

(b) Conduct satisfactory in-service training for skin care and wound prevention.

(c) Establish a functioning wound-care team.

(d) Establish, conduct and monitor a skin-check program.

The court noted at least one resident developed a new pressure sore between the time of the state's initial survey and a follow-up survey. That in itself was evidence the facility was not dealing effectively with the problem. South Valley Health Care Center v. Health Care Financing Administration, 223 F. 3d 1221 (10th Cir., 2000).

A patient was hospitalized for peripheral vascular disease causing occlusion of the vessels in his left leg. Conservative medical care was unsuccessful and his left leg was amputated below the knee. It did not heal properly and the left leg had to be amputated again above the knee.

During his hospitalization he complained his left-leg stump had been injured by being struck against the bed frame when hospital personnel handled him roughly in a transfer.

There was also a decubitus ulcer on his right heel. The patient claimed his orthopedist told him it was caused by substandard treatment. Although the patient knew about it in September, 1996, it was well into 1997 until the patient realized the decubitus ulcer would be slow to heal.

Documentation Is Critical

The Court of Appeal of Louisiana did not accept what the patient had to say. Instead the court looked at the documentation in the patient's hospital chart. According to the chart, the right-heel decubitus ulcer was promptly and fully documented along with the care given for it.

The dressing was frequently changed, and that was charted. There was patient teaching documented in the chart that the patient, even though missing his left leg, had to avoid pushing with his right foot, to avoid exacerbating the decubitus on his right heel. It was also documented, the court noted, that the patient had verbalized that he understood the importance of what the nurses had taught him.

The court ruled the statute of limitations had run out before he made a formal claim for medical negligence. The statute of limitations for medical negligence (one year in Louisiana) starts to run when the patient first discovers something that could amount to substandard care, and ends with formal filing of the case according to the procedure provided by state law. La-grange v. Schumpert Medical Center, 765 So. 2d 473 (La. App., 2000).