

Medicare & Your Maintenance Care

Q: Do I have to “improve” to keep getting home health care?

A: No. One of the biggest mistakes that nursing homes, rehabilitation centers, and home health agencies make is telling people on Medicare that they can't get skilled nursing, home health care, or physical therapy because they've “reached a plateau,” or “failed to improve.” The courts have ruled that “improvement” is not a requirement for Medicare therapy or home health benefits. A federal judge recently ordered Medicare to do a better job of informing health care providers that the so-called “improvement standard” was no longer in effect.

Older patients with chronic and progressive diseases like Alzheimers, Parkinson's, or congestive heart failure are unlikely to “improve” over time, but they can still get physical therapy or home health care. Rehabilitation therapy helps prevent declines in walking, eating, speaking, dressing and bathing. Denying someone access to these treatments can worsen their disability, threaten their independence and result in more expensive health care needs.

People on Medicare might get confused reading their Medicare & You booklet, which describes on page 50 that home health is “part-time or intermittent.” That does not mean it has to be short-term. It is true that a doctor must approve your care, and you must be “homebound,” which is defined as having trouble leaving your home without help, and that leaving your home is a major effort. But you cannot be denied care because you are not “improving.”

In a 2013 court decision in Vermont, Medicare was ordered to pay for home

health services to prevent a deterioration in a patient's condition. The “stability presumption” was found to be unlawful. The Judge wrote: “A patient's chronic or stable condition does not provide a basis for automatically denying coverage for skilled services. The determination of whether a patient needs skilled nursing care should be based solely upon the patient's unique condition and individual needs, without regard to whether the illness or injury is acute, chronic, terminal, or expected to extend over a long period of time. In addition, skilled care may, depending on the unique condition of the patient, continue to be necessary for patients whose condition is stable.”

The fact that skilled care in a nursing home or at home has stabilized a person's health does not render that level of care unnecessary. An elderly person need not risk a deterioration of her fragile health to validate the continuing requirement for skilled care. Your “failure to improve” cannot be used as a reason to deny you Medicare therapies or home health care. Your care cannot be cut off because you “exhibit a decline in functional status.”

If you are on traditional Medicare or Medicare Advantage, and receiving services from a nursing facility, rehab facility or home health agency, and you think your covered services are ending too soon, you can ask for a fast appeal, referred to as an “expedited determination.” Your provider will give you a notice before your services end that will tell you how to appeal. For more assistance, call 1-800323-3205 and ask for the Medicare Advocacy Project.