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New Jersey Elder Lawyer

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CAN A PATIENT BE DENIED THERAPY SERVICES, IN A SKILLED NURSING FACILITY, BECAUSE HE/SHE IS NOT MAKING PROGRESS?

NJ Long Term Care Planning

This denial may be blamed on medical judgment or Medicare rules.

If the denial is based on medical judgment, the facility should be informed that they are charged with trying to "maintain" a resident's condition: "a facility must ensure that (a) resident's abilities in activities of daily living do not diminish unless circumstances of the individual's clinical condition demonstrate that diminution was unavoidable." Sec. 483.25(a)(l) of Title 42 of the Code of Federal Regulations (emphasis added).

If a denial is blamed on Medicare rules, there are two counterpoints to be made:

1. Payment source should not affect the care provided. Sec. 483.12(c)(l) of the Code of Federal Regulations.
2. Medicare reimbursement does not necessarily require "progress". The patient must need "skilled nursing services" or "skilled re- habilitation services." Sec. 409.31-409.35 of Title 42 of the Code of Federal Regulations.

James E. De Martino is licensed to practice in the State of New Jersey.

Our practice is limited to estate planning, long-term care planning, and NJ Medicaid asset protection.

Elder Law and NJ Estate Planning Strategies

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