

About the 75 Percent Rule and H.R. 1459/S. 543: the “Preserving Patient Access to Inpatient Rehabilitation Hospitals Act of 2007”

❁ What is the 75 Percent Rule?

It is an outdated Medicare regulation that prevents access to critically important healthcare for thousands of patients who need intensive rehabilitation that can *only* be provided in an inpatient rehabilitation hospital or unit. It was intended to determine whether a rehabilitation hospital or unit qualifies to be paid differently than a regular hospital. It is supposed to have nothing to do with whether individual patients qualify for inpatient rehabilitation. **BUT**, some in Washington are using this regulation to enforce limits on the number and types of ALL patients (Medicare and non-Medicare) who can be treated in these hospitals and units.

❁ What specific change in policy is affecting patient access?

Since 2004, some in Washington have been trying to change the manner in which doctors decide whether a patient receives inpatient rehabilitation or a less intense level of care by revising the so-called “75 Percent Rule” by imposing tighter restrictions on criteria that determine who qualifies for inpatient rehabilitation care and services.

❁ How is the 75 Percent Rule impacting patients?

- When fully implemented in July 2008, 75 percent of an inpatient rehabilitation hospital's or unit's patients will have to fall into a narrow and arbitrary category of ailments. This list of “approved” ailments under the Rule is short — *only 13* out of many medical conditions that require intensive rehabilitative care.
- Patients — regardless of their unique and pressing needs — are being turned away NOW from the hospitals that provide them with the most appropriate rehabilitative care. Independent studies have shown that the Rule is acting as a substantial barrier to inpatient rehabilitative care for Medicare beneficiaries. In late 2006, the number of Medicare patients who were treated in a rehabilitation hospital or unit plummeted to their lowest level in five years.
- Few patients are treated in inpatient rehabilitation hospitals and units. For those who *are*, the care they receive is often the difference between going home with lost function or mobility restored, or being sent to a nursing home and receiving care in a less intensive environment.
- There is a big difference between an inpatient rehabilitation hospital and a nursing home, yet the 75 Percent Rule creates a barrier to inpatient rehabilitation hospital admission and pushes patients to nursing homes.

❁ How many people has this rule negatively affected?

- The 75 Percent Rule is hurting many more people than the government originally predicted. In the first year alone, at just the 50 percent threshold, the Rule resulted in more than **40,000** patients who did not receive inpatient rehabilitation care.
- Data now shows that as many as **88,000** patients did not receive inpatient rehabilitation services in the first two years since the Rule took effect.

❁ What are inpatient rehabilitation services?

Inpatient rehabilitation hospitals and units provide intensive rehabilitation therapies and medical management services for patients of all ages with severe injuries, disabilities, and chronic conditions. These services are provided by a multi-disciplinary team and include physical, occupational, and speech therapies, respiratory and recreational therapies, orthotic and prosthetic services (such as artificial limbs and orthopedic braces), and social work services.

❁ Who needs intense inpatient rehabilitation services?

Patients needing inpatient rehabilitation have significant rehabilitation needs coupled with serious or complex conditions requiring close medical supervision and management. Typical patients served in the inpatient rehabilitation setting include people with spinal cord injuries, brain injuries, and amputations, but also include a whole host of patients who have a wide range of medical conditions and complications.

❁ What happens today when you need intense inpatient rehabilitation services?

Historically, doctors could refer patients to inpatient rehabilitation hospitals and units when they and the rehabilitation team determined the referral was medically necessary and appropriate. However, policy changes by some in Washington have created what amounts to a quota system where arbitrary decisions are being made that deny an appropriate level of care to some patients based on their medical diagnosis rather than on the basis of their individual need for intensive rehabilitation.

❁ I am not a Medicare recipient. Why should I care about this?

The 75 Percent Rule applies to all patients treated by rehabilitation hospitals and units, not just Medicare recipients; hospitals are forced to “manage to their number” among all patients, **NOT just** Medicare beneficiaries. Thus, non-Medicare patients can be impacted by it just as easily as Medicare recipients.

❗ What are ailments outlined by the 75 Percent Rule?

- Stroke
- Spinal cord injury
- Congenital deformity
- Amputation
- Major multiple trauma
- Hip fracture
- Brain injury
- Burns
- Polyarthritis (including rheumatoid arthritis)
- Neurological disorders, including:
 - Multiple Sclerosis
 - Motor Neuron Disease
 - Polyneuropathy
 - Muscular Dystrophy
 - Parkinson's Disease

❗ What is the comorbidity provision?

Right now, the “comorbidity” provision is the **ONE** provision under the 75 Percent Rule that allows patients wider access to inpatient rehabilitative care. It allows a patient’s secondary ailment to “count” as an approved ailment under the Rule, as long as it is one of the Rule’s 13 ailments.

❗ Why should I be concerned about the comorbidity provision?

- The comorbidity provision will no longer be in effect once the Rule is fully implemented in 2008.
- This provision is essential to protect at least some patients who have multiple medical problems from being denied access to intensive rehabilitative care in a rehabilitation hospital or unit by the 75 Percent Rule.

❗ Didn't Congress already solve the 75 Percent Rule problem?

No. While the Deficit Reduction Act included a provision that maintained the Rule’s threshold percentage at 60 percent for one additional year, this temporary relief expires later this summer. **If Congress takes no action before July 1, 2007, the law requires the Rule’s threshold percentage to increase to 65 percent, which would impose greater barriers to access to inpatient rehabilitation care and services for many patients who need it.**

❗ How is the 75 Percent Rule impacting inpatient rehabilitation hospitals and the communities they serve?

- Physicians and inpatient rehabilitation hospitals are facing a terrible dilemma: Either block admissions of patients who don’t have the “right” diagnoses or risk having the hospital or unit closed down for not complying with the Rule.
- In many communities, these hospitals are large employers; jobs are being impacted and small businesses that supply or service these hospitals are being impacted, endangering the economic vitality of these communities.
- The loss of services at or closure of these inpatient rehabilitation hospitals or units means many families patients will be forced to drive their loved one long distances to access the rehabilitation care they need, if it is available at all.

❗ What is the right solution to address the problems created by the 75 Percent Rule?

The Rule should be appropriately refashioned to maintain and preserve access to **safe** and **effective** inpatient rehabilitative healthcare that allows patients to regain or maintain their maximum level of independence in their daily lives. More focus should be placed upon the medical and rehabilitative needs of patients, with less focus on their medical diagnoses or conditions alone. Evidence produced by clinical-based studies and research should be pursued and used to appropriately refine the Rule.

❗ What is Congress doing to address the problems created by the 75 Percent Rule?

Legislation introduced in both the U.S. House and Senate will help promote quality of life for people who have serious rehabilitative needs by preserving access to **safe** and **effective** rehabilitative care in America’s rehabilitative hospitals and units. The bill protects from further erosion of patient access by maintaining the current threshold at 60 percent. **BUT**, unless Congress acts fast, the Rule’s compliance threshold jumps to 65 percent starting July 1, 2007, and then to the full 75 percent in 2008 — so we must act **NOW** to let Congress know that this legislation must be enacted into law this year!

❗ What are the benefits to this legislation?

- Under the changes proposed by H.R. 1459 and S. 543, the “Preserving Patient Access to Inpatient Rehabilitation Hospitals Act of 2007,” inpatient rehabilitation hospitals and units won’t have to close more beds or decrease staff or services and can focus on providing high quality inpatient rehabilitative care to patients who need it.
- Additionally, the legislation would ensure that patients with secondary medical ailments will continue to have access to inpatient rehabilitative care; otherwise, these patients could be denied access to necessary rehabilitative care.

❗ What can I do to insist that the problems created by the 75 Percent Rule are addressed?

You can write your U.S. Congressman and Senators **today** and tell them you support H.R. 1459 and S. 543, the “Preserving Patient Access to Inpatient Rehabilitation Hospitals Act of 2007.”