3-Day Waiver and Spell of Illness FAQs

Version 1 – March 18, 2020

Overview

Section 1861(i) of the Act permits Medicare payment for SNF care only when a beneficiary first has an inpatient hospital stay of at least 3 consecutive days. Section 1812(f) of the Act allows Medicare to pay for SNF services ***without*** a 3-day qualifying stay if the Secretary finds that doing so will not increase total payments made under the Medicare program or change the essential acute-care nature of the SNF benefit. Based upon the President's actions and the Secretary's authority under Section 1135 and Section 1812(f), SNF care without a 3-day inpatient hospital stay will be covered for beneficiaries who experience dislocations or are affected by the emergency.

To view the CMS transmittal, click here. For more information, please email questions to **COVID19@ahca.org**. AHCA is monitoring its COVID19 email address 7 days a week using that email inbox will ensure quicker response

3-Day FAQs

The FAQs below are Version 1 and are based upon AHCA staff and legal interpretation as well as CMS verbal guidance on the transmittal linked above. Some of the waiver provisions are based upon Secretary Azar's national Section 1135 waiver declaration which is located here. No other written CMS guidance is available at this point.

1. **What is CMS' overarching goal of the waiver?**
   Answer: CMS' top priority goal of the waiver is to free up hospital beds by allowing all patients to enter SNFs as quickly as possible and to limit opportunities for further transmission of the virus.

2. **Does the waiver apply to Medicare Part A Fee-for-Service (FFS) and Medicare Advantage patients?**
   Answers: The waiver only applies to Medicare Part A FFS. CMS has separate guidance for Medicare Advantage plans.

3. **Is the waiver considered a "blanket waiver or is it more specific?**
   Answer: The waiver is considered a blanket waiver and is national. This is based upon the Secretary's declaration of a **national** state of emergency (see link above). National means the waiver applies to all states and all SNFs. States and providers do not need to submit individual waiver requests.

4. **Does the waiver only apply to COVID patients or patients in hospitals and SNFs in states and or localities with COVID emergency declarations?**
   Answer: No – the waiver applies to all patients and all regions of the country irrespective of the presence of COVID or a state or local declaration of emergency. See discussion of "national" in item 3 above. And, specifically, this means:

   a. SNFs do not need to prove the hospital or other referring facility was evacuated due to COVID 19;
   b. SNFs do not need to qualify/prove the patient was discharged from a hospital (in the emergency or receiving locations) in order to provide care to more seriously ill patients; and

   c. SNFs do not need to qualify/prove if a patient needs SNF care as a result of the emergency, regardless of whether that individual was in a hospital or nursing home prior to the emergency.

5. **Has CMS limited the types of admissions/patients the waiver applies to?**
   Answer: No – CMS has not limited the waiver to types of admissions. Therefore, SNFs may be admitted from:
   a. Hospitals with less than three days;
   b. Hospitals with only observation stay days;
   c. Emergency Rooms;
   d. Direct from Community;
   e. Direct from Community where they were receiving home health or outpatient services; and
   f. Long-Stay patients current in residence with a change in status that now requires a skilled level of care (See 3-Day FAQ #6 below) may be skilled in place without a hospital admission.

6. **What does CMS require for application of the waiver to patient admissions?**
   Answer: All patients admitted under the waiver ***must*** meet the criteria for skilled care located in the Medicare Benefit Policy Manual Chapter 8 - Coverage of Extended Care (SNF) Services Under Hospital Insurance located. To view Chapter 8, click here.

7. **When and how does the waiver period expire? How will the end date be communicated?**
   Answer: The waiver will end when the national state of emergency is rescinded. This will be communicated by either U.S. Department of Health and Human Services transmittals(s) or directly from the Centers for Medicare and Medicaid Services (CMS).

8. **When billing, how do SNFs identify patients as 3-Day waiver admissions to ensure payment and mitigate risk of audit?**
   Answer: The "DR" condition code should be used by institutional providers on the UB-04. For more detail on billing see CMS' Medicare Learning Network (MLN) located here.

9. **Are there nuances to CMS' 3-Day inpatient stay waiver and requirements for special coding and documentation?**
   Answer: Yes. However, CMS has not yet provided detail on all possible documentation and coding scenarios. CMS has suspended the MDS completion and submission timeline requirements. More detail will be provided in subsequent versions of these FAQs.

Spell of Illness FAQs

1. **What does CMS intend with the waiver of the Spell of Illness?**
   Answer: CMS is recognizing special circumstances for certain beneficiaries who, prior to the current emergency, had either begun or were ready to begin the process of ending their spell of illness after utilizing all of their available SNF benefit days. Existing Medicare regulations state that these beneficiaries cannot receive additional SNF benefits until they establish a new benefit period (i.e., by breaking the spell of illness by being discharged to a custodial care or noninstitutional setting for at least 60 days). Due to the current crisis, CMS also is utilizing the authority under section l8l2(f) providing renewed SNF coverage to beneficiaries without starting a new spell of illness and allowing them to receive up to an additional 100 days of SNF Part A coverage. The policy applies only for those beneficiaries who have been delayed or prevented by the emergency itself from beginning or completing the process of ending their current benefit period and renewing their SNF benefits.

2. **Are there nuances to CMS' waiver of the Spell of Illness and requirements for special documentation?**

Answer: Yes. However, CMS has not yet provided detail on all possible documentation and coding scenarios. More detail will be provided in in subsequent versions of these FAQs.