

CMS Issues Waivers of 3-Day Stay and Spell of Illness

*On March 14, the Centers for Medicare and Medicaid Services (CMS) issued two waivers to aid skilled nursing facilities in addressing the national COVID-19 outbreak. CMS is waiving both the 3-Day Stay and Spell of Illness requirements – **nationally**.*

These waivers mean that skilled nursing facility (SNF) care without a 3-day inpatient hospital stay will be covered for beneficiaries who experience dislocations or are affected by the COVID-19 outbreak. Due to the current crisis, CMS also is utilizing the authority under section 1812(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. More detail and background information are provided below.

OVERVIEW

When the President declares a disaster or emergency under the Stafford Act or National Emergencies Act and the U.S. Department of Health and Human Services (DHHS) Secretary declares a public health emergency under Section 319 of the Public Health Service Act, the Secretary is authorized to take certain actions in addition to regular authorities. For example, under section 1135 of the Social Security Act, the Secretary may temporarily waive or modify certain Medicare, Medicaid, and Children's Health Insurance Program (CHIP) requirements to ensure that sufficient health care items and services are available to meet the needs of beneficiaries. Today, DHHS has waived the critical SNF provisions.

3-DAY STAY WAIVER

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 three 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.

SPELL OF ILLNESS WAIVER

In addition, 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 1812(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.

FOR MORE INFORMATION

To view the CMS information regarding these waivers, click <https://www.cms.gov/files/document/coronavirus-snf-1812f-waiver.pdf>

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