

CORONAVIRUS DISEASE 2019 (COVID-19)

Guidance related to 1812(f) Waiver for SNF 3-day stay



Audience: Ministry Leadership

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*NOTE: On March 13, 2020 the President declared COVID-19 to be a national emergency. As a result, CMS has been authorized to take proactive steps through the 1135 Emergency Waiver process. The goal of the 1135 Waiver is to remove regulatory barriers where feasible in order to ensure that healthcare providers who deliver services in good faith can be fairly reimbursed and not subjected to sanctions for noncompliance when the normal course of action cannot be followed. CMS issued a “blanket” waiver for certain accommodations has been issued in support of healthcare providers to combat and contain the spread of this virus. The summary of those waivers is located in the "Update on the 1135 Waiver for Leadership" in the Regulatory folder on the PULSE page dedicated to CVOID 19. **This Guidance provides more information in relation to the portion of the House Bill 1135, specifically in connection to the CMS 3-D Stay waiver for Skilled Nursing facility.***

While we all agree that our transitions/discharges to home are the safest environment for all of our patients then shelter in place and practice social distancing, there will be those patients that have a Skilled Need requiring a SNF stay post hospital stay. This document is to discuss guidance for the essential acute care nature of the Medicare SNF benefit.

SNF care without a 3-day inpatient hospital stay will be covered for beneficiaries who experience dislocations or are otherwise affected by the emergency, such as those who are (1) evacuated from a nursing home in the emergency area, (2) discharged from a hospital (in the emergency or receiving locations) in order to provide care to more seriously ill patients, or (3) need SNF care as a result of the emergency, regardless of whether that individual was in a hospital or nursing home prior to the emergency. Please work with your internal Incident Command to determine when you should enact this waiver.

In addition to the 1135 waiver authority, Section 1812(f) of the Social Security Act (the Act) authorizes the Secretary to provide for SNF coverage in the absence of a qualifying hospital stay, as long as this action does not increase overall program payments and does not alter the SNF benefit's “acute care nature” (that is, its orientation toward relatively short-term and intensive care). Under this authority, CMS can issue a temporary waiver of the SNF benefit's qualifying hospital stay requirement for those beneficiaries who are evacuated or transferred as a result of the emergency situation. In this way, beneficiaries who may have been discharged from a hospital early to make room for more seriously ill patients will be eligible for Medicare Part A SNF benefits. In addition, beneficiaries who had not been in a hospital or SNF prior to being evacuated, but who need skilled nursing care as a result of the emergency, will be eligible for Medicare Part A SNF coverage without having to meet the 3-day qualifying hospital stay requirement.

The reason this is important is because it explains the situation that we will discharge early for the express purpose of caring for more seriously ill patients in the acute care setting. We want to make sure we have a method to show why we transferred patients out early should CMS come back after the fact to investigate a complaint for example, and need to see why we sent someone out early. TJC has committed that they will not review documents from during this time period, but we do not have that commitment from CMS. So please, do be sure that all case management teams understand this fact and have a process for documentation

For more information:

<https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/Downloads/All-Hazards-FAQs.pdf>

<https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/Downloads/1135-Waivers-At-A-Glance.pdf>



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