

CLINICAL REGULATORY UPDATE

May | 2023

PharMerica

COVID-19 Public Health Emergency Expires 5-11-23, 3-Day Prior Hospitalization Requirement for SNF Coverage Returns

BACKGROUND

The **Prior Hospitalization and Transfer Requirement** is an established CMS rule, stating that in order to qualify for post-hospital extended care services (i.e., Skilled Nursing Facility care), an individual must have a medically necessary hospital inpatient stay of **at least 3 consecutive calendar days** and must be transferred to the SNF **within 30 days** of discharge.

In certain circumstances, the Secretary of the Department of Health and Human Services can temporarily modify or waive Medicare, Medicaid, CHIP, or HIPAA requirements (via waivers per the Social Security Act section 1135).

The COVID-19 PHE saw these 1135 waivers, as the industry sought to minimize regulatory burden and reduce inpatient numbers for hospital-systems already beyond capacity.

One such instance was effected on March 1, 2020, as CMS issued a [blanket waiver](#) of the 3-Day Prior Hospitalization requirement to qualify for Medicare Part A covered SNF care as follows:

3-Day Prior Hospitalization Waiver: *Using the waiver authority under Section 1812(f) of the Social Security Act, CMS is temporarily waiving the requirement for a 3-day prior hospitalization for coverage of a skilled nursing facility (SNF) stay.*

This waiver provides temporary emergency coverage of SNF services without a qualifying hospital stay.

In addition, for certain beneficiaries who exhausted their SNF benefits, it authorizes renewed SNF coverage without first having to start and complete a 60-day “wellness period” (that is, the 60-day period of non-inpatient status that is normally required in order to end the current benefit period and renew SNF benefits).

This waiver will apply only for those beneficiaries who have been delayed or prevented by the emergency itself from commencing or completing the 60-day “wellness period” that would have occurred under normal circumstances.

REGULATION UNDER PHE UNTIL MAY 11, 2023

As long as the 1135 waiver is in effect (until the PHE expires on May 11, 2023), a Medicare beneficiary can receive Medicare Part A SNF coverage without a Qualifying Hospital Stay (QHS) if they develop a need for a SNF level of care and that they could be admitted directly from the community, a doctor’s office, an emergency room, from a hospital observation stay, or from a hospital inpatient stay that is less than 3 days. It also means that a SNF long-term resident could qualify for SNF benefits, or “skill-in-place,” without leaving the SNF. Additionally, under the benefit period waiver, this means that a beneficiary could qualify for an additional 100-day benefit period without starting or completing a 60-day break in spell-of-illness, but only if all other Medicare SNF coverage requirements are met.

With the exception of this explicitly waived 3-day qualifying hospital stay requirement, all other SNF coverage requirements continue to apply. These requirements are described in the [Medicare Benefit Policy Manual, Chapter 8](#).

REGULATION AFTER PHE EXPIRES ON MAY 11, 2023

As the 1135 waiver terminates with the PHE expiration on May 11, 2023, the Prior Hospitalization and Transfer Requirement will return, effective immediately. SNF stakeholders should be aware that normal benefit eligibility requirements of the 3-day qualifying hospital stay (QHS) will be in effect.

ADDITIONAL INFO

[ACHA-NCAL 3 Day Waiver FAQ](#)

[CMS LTCF Flexibilities to Fight COVID-19](#)