

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
233 North Michigan Avenue, Suite 600
Chicago, IL 60601



INNOVATION & FINANCIAL MANAGEMENT GROUP

Refer: FMB 24 / MTN 575912

Brock Slabach, MPH, FACHE
Sr. Vice – President for Member Services
National Rural Health Association
4501 College Blvd. #225
Leawood, KS 66211-1921

SENT VIA ELECTRONIC MAIL TO BSLABACH@NRHARURAL.ORG

Re: Waiving 3-Day Hospitalization for Swing Bed

Dear Mr. Slabach:

This is in response to your email to the Centers for Medicare & Medicare Services (CMS) requesting if the 3-day prior hospitalization waiver applies to swing bed stays for not just patient transfer within a hospital but between a critical access hospital (CAH) and other acute care hospitals.

On March 13, 2020, President Trump declared the 2019 Novel Coronavirus Disease (COVID-19) situation a national emergency, which allows CMS to waive certain federal requirements in the Medicare, Medicaid, and CHIP programs to ensure continued access to quality of care for all Medicare beneficiaries pursuant to section 1135(b) of the Social Security Act (Act). To streamline the section 1135 waiver request and approval process, CMS is continuously issuing a number of blanket waivers for many Medicare provisions, which primarily affect requirements for individual facilities, such as hospitals, long term care facilities, home health agencies, and so on. These waivers are in effect, with a retroactive effective date of March 1, 2020, through the end of the emergency declaration and DO NOT require a request to be sent to the 1135waiver@cms.hhs.gov mailbox or that notification be made to any of CMS's regional offices.

The Act permits certain small, rural hospitals to enter into a swing bed agreement, under which the hospital can use its beds, as needed, to provide either acute or skilled nursing facility (SNF) care. As defined in the regulations, a swing bed hospital is a hospital or CAH participating in Medicare that has CMS approval to provide post-hospital SNF care and meets certain requirements. To qualify for SNF-level services, a beneficiary must have been hospitalized in a participating or qualified hospital or participating CAH for medically necessary inpatient hospital or inpatient CAH care for at least 3 consecutive calendar days, not counting the date of discharge.

CMS is waiving this 3-day prior hospitalization for coverage of a SNF stay, noted above, in the newly issued rules and waivers. This waiver provides temporary emergency coverage of SNF services without a qualifying hospital stay, for those people who experience dislocations or are

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otherwise affected by COVID-19. This waiver applies to swing bed hospitals, which are hospitals or CAHs participating in Medicare that have CMS approval to provide post-hospital SNF care and meets certain requirements. See Swing Bed Factsheet located at <https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/downloads/SwingBedFactsheet.pdf> to learn more about hospitals who may provide swing bed services. Currently, there is no waiver modifying the definition of a swing bed hospital and rules that were not amended as a result of 1135 waivers are still in place.

Attached is the recently released summary of the “COVID-19 Emergency Declaration Blanket Waivers for Health Care Providers” for your convenience. Included in this document, which is located on the website page at <https://www.cms.gov/about-cms/emergency-preparedness-response-operations/current-emergencies/coronavirus-waivers>, is a listing of helpful website resources.

CMS is continuously issuing additional waivers and flexibilities, and it is vital to stay updated. Please visit <https://www.cms.gov/About-CMS/Agency-Information/Emergency/EPRO/Current-Emergencies/Current-Emergencies-page> for more of CMS’ actions concerning COVID-19. Additionally, please browse our MLN Connects at <https://www.cms.gov/Outreach-and-Education/Outreach/FFSProvPartProg/Provider-Partnership-Email-Archive> to keep abreast of changes and updates impacting the provider community.

We trust this information is responsive to your concerns. If you require additional assistance, please contact Adanna C. Ene at 312-353-7360 or at adanna.ene@cms.hhs.gov.

Sincerely,



Allison McCoy, MSN, RN
OPOLE – Innovation & Financial Management
Deputy Group Director – Chicago/Kansas City

Enclosure