DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

200 Independence Avenue SW
Washington, DC 20201

DATE: MAY 25 2011

TO: The Secretary
Through: DS_____
COS_____
ES_____

FROM: Administrator
Centers for Medicare & Medicaid Services

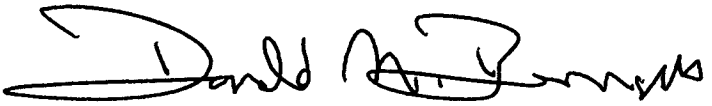
SUBJECT: Findings Concerning Section 1812(f) of the Social Security Act

Section 1861(i) of the Social Security Act (the Act) permits Medicare payment for skilled nursing facility (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 of Health and Human Services 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. I find that covering SNF care without a 3-day inpatient hospital stay only for beneficiaries affected by the May 2011 severe storms and tornadoes in Missouri (with respect to the geographic areas and timeframes specified in the waiver(s) issued under section 1135 of the Act as a result of that tornado) would not increase total payments made under the Medicare program and would not change the essential acute-care nature of the Medicare SNF benefit. Therefore, SNF care without a 3-day inpatient hospital stay will be covered for beneficiaries (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) who need SNF care as a result of the emergency, regardless of whether that individual was in a hospital or nursing home prior to the disaster.

In addition, we will recognize special circumstances for beneficiaries who, prior to the May 2011 severe storms and tornadoes in Missouri, had been recently discharged from an SNF 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 non-institutional setting for at least 60 days). I find that covering SNF care without requiring a break in the spell of illness only for beneficiaries affected by the May 2011 severe storms and tornadoes in Missouri would not increase total payments made under the Medicare program and would not change the essential acute-care nature of the Medicare SNF benefit. Therefore, we are also utilizing the authority under section 1812(f) of the Act to provide coverage for extended care services which will not require a new spell of illness in order to renew provision of services by a SNF. Beneficiaries can

then receive up to 100 days of SNF Part A coverage for care needed as a result of the May 2011 severe storms and tornadoes in Missouri. This policy will apply only for those beneficiaries who:

• were evacuated from a non-institutional setting in an emergency area (as specified in the waiver(s) issued under Section 1135 of the Act in connection with the severe storms and tornadoes in Missouri in May 2011),
• need SNF care as a direct result of the severe storms and tornadoes in Missouri in May 2011,
• were in the process of "breaking the spell of illness" for a prior SNF Part A stay, and would not normally be eligible for additional SNF Part A benefits.



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