TO: The Secretary

Through: DS_____

COS_____

ES_____

FROM: Administrator 8V.
Centers for Medicare & Medicaid Services

SUBJECT: Findings Concerning Section 1812(f) of the Social Security Act in Response to the Effects of the Earthquake in the State of Alaska in 2018

These findings are based on the public health emergency that you declared under Section 319 of the Public Health Service Act as a result of the consequences of the above-captioned disaster, and are effective with respect to the timeframes and geographic areas specified in the waiver(s) issued under section 1135 of the Social Security Act (the Act) in response to that disaster. Accordingly, both the effective date and expiration date for these temporary emergency policies are the same as those specified pursuant to the section 1135 waiver(s).

Section 1861(i) of 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 above-captioned disaster (with respect to the timeframes and geographic areas specified in the waiver(s) issued under section 1135 of the Act as a result of that disaster) 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 certain beneficiaries who, prior to the current disaster, 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). However, the dislocations resulting from the disaster (including disaster-related evacuations and the ensuing treatment delays) may cause such beneficiaries' condition to deteriorate to the point where they experience a renewed need for SNF care, while at the same time preventing them from completing the process of renewing their SNF benefits that would have occurred under normal circumstances. Accordingly, I find that covering additional SNF care without requiring a break in the spell of illness only for such beneficiaries in connection with the above-

captioned disaster 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 renewed coverage for extended care services which will not first require starting a new spell of illness for such beneficiaries, who can then receive up to an additional 100 days of SNF Part A coverage for care needed as a result of the above-captioned disaster. This policy will apply only for those beneficiaries who:

• were evacuated from a non-institutional setting in an emergency area pursuant to the disaster,
• need SNF care as a direct result of the disaster,
• 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.