mln MATTERS®
KNOWLEDGE • RESOURCES • TRAINING

COVID-19 Blanket Swing Bed Waiver for Addressing Barriers to Nursing Home Placement for Hospitalized Individuals

MLN Matters Number: SE20018
Related Change Request (CR) Number: N/A
Article Release Date: May 20, 2020
Effective Date: N/A
Related CR Transmittal Number: N/A
Implementation Date: N/A

PROVIDER TYPES AFFECTED

This MLN Matters Article is for hospitals requesting Medicare approve swing beds as a hospital service to provide skilled nursing level care for hospitalized patients who don't need acute level care but can't find nursing home placement during the COVID-19 Public Health Emergency (PHE).

WHAT YOU NEED TO KNOW

Under the COVID-19 PHE blanket waiver entitled, "**Expanded ability for hospitals to offer long-term care services ("swing-beds") for patients that do not require acute care but do meet the Skilled Nursing Facility (SNF) level of care criteria as set forth at 42 CFR 409.31**", all Medicare enrolled hospitals (except psychiatric and long term care hospitals) that need to provide post-hospital SNF level swing-bed services for non-acute care patients in hospitals can apply for swing bed approval to provide these services, so long as the waiver is not inconsistent with the state's emergency preparedness or pandemic plan.

Under Section 1135(b)(1) of the Social Security Act (the Act), the Centers for Medicare & Medicaid Services (CMS) has waived the requirements at 42 CFR 482.58, "Special Requirements for hospital providers of long-term care services ("swing-beds")" subsections (a)(1)-(4) "Eligibility," to allow hospitals to establish SNF swing beds payable under the SNF Prospective Payment System (PPS) to provide additional options for hospitals with patients who no longer require acute care but are unable to find placement in a SNF. Note: All other hospital conditions of participation and those SNF provisions at 42 CFR 482.58(b), to the extent not waived, continue to apply. See swing bed waiver for additional requirements.

This MLN Matters Special Edition article provides answers to the key questions hospitals may have as they pursue this option for treating their patients.

CMS CENTERS FOR MEDICARE & MEDICAID SERVICES
Medicare Learning Network®

SWING BEDS AND HOSPITALS

What is a swing bed and how is it relevant to hospitals?

"Swing-bed" is a term that means the care and reimbursement for the care of a patient in a hospital bed that "swings" from acute care to post hospital SNF care. A swing-bed hospital means a hospital or Critical Access Hospital (CAH) participating in Medicare that has an approval from CMS to provide post hospital SNF care and meets the requirements specified in 42 CFR 482.58 for a hospital or 42 CFR 485.645 for a CAH.

Can any hospital have swing beds?

Hospitals, defined in Section 1861(e) of the Act, can be approved to provide swing bed services allowing them to use their beds for acute care or post-hospital SNF care after meeting the eligibility criteria at 42 CFR 482.58(a)(1)-(4) and by meeting the requirements at 42 CFR 482.58(b). Similarly, CAHs are also eligible to provide swing bed services by meeting the requirements at 42 CFR 485.645, if approved.

Under Section 1135(b)(1) of the Act, CMS waived the eligibility requirements at 42 CFR 482.58(a)(1)-(4) during the COVID-19 PHE to allow hospitals, except for psychiatric and long term care hospitals, to apply for swing bed services that need to provide SNF level care for non-acute care patients, so long as the waiver is not inconsistent with the state's emergency preparedness or pandemic plan.

How do hospitals request approval for swing beds?

Under normal circumstances, hospitals and CAHs submit a Form CMS-855A to their Medicare Administrative Contractor (MAC) to request swing bed approval.

During the COVID-19 PHE, hospitals and CAHs call the Medicare provider enrollment hotline to request swing bed approval. See additional details below under MLN section "Swing Bed Waiver During the PHE".

Do hospitals have to designate a special unit in the hospital for swing beds?

A hospital or CAH does not have to locate their swing beds in a special section of the facility unless the hospital or CAH requires it. Approved swing bed hospitals or CAHs may use any acute care inpatient bed within the hospital or CAH to provide swing bed services.

Documentation of the acute care discharge and admission to swing bed status must be in the beneficiary's medical record. The medical record must include:

- acute care discharge orders including a discharge summary;
- admission orders to swing bed status (whether the beneficiary stays in the same hospital or CAH or transfers to an approved swing bed hospital or CAH); and,
- appropriate progress notes.

Under the current PHE, can a hospital make other arrangements besides applying for swing bed approval for a SNF to admit the hospital's SNF-level patients and care for them in the hospital's beds?

Yes. A hospital can enter into an agreement for services furnished to a SNF under arrangement to be a "facility without walls," in other words, a temporary expansion site. Specifically, the SNF may temporarily transfer its resident to the hospital for SNF care in the hospital beds where the SNF bills CMS for the care and pays the hospital under the arrangement, as long as this is not inconsistent with a state's emergency preparedness or pandemic plan, or as directed by the local or state health department. Making arrangements with another facility or provider for the provision of care during an emergency is a longstanding practice that SNFs have commonly followed during previous natural disasters and other emergency situations. Such practices are supported by the SNF participation requirements at 42 CFR 483.73, which require each SNF to have emergency preparedness policies and procedures in place, and at 42 CFR 483.70(j), which require every Medicare-participating SNF to have in effect with at least one hospital a transfer agreement to facilitate the exchange of patients and information between the two institutions.

When the hospital enters into a contractual arrangement with a SNF for the use of general inpatient routine beds, the hospital will need to enter the amount received under contract from the SNF on Form CMS-2552-10, Worksheet A-8, as a revenue offset. The amount received must be used to offset general inpatient routine care costs on Worksheet A, line 30, and the applicable days must be reported on Worksheet S-3, Part I, subscripted line 24.20.

My hospital has patients ready for discharge to a SNF. We have been unable to find a SNF to accept some of our patients for post-acute care. We have not yet pursued a swing bed approval nor have we located a SNF to facilitate an arrangement. Can we receive outlier or other special payments under IPPS or OPPS for keeping the patient additional days?

When a hospital inpatient's care needs drop from acute- to SNF-level but no SNF bed is available, the regulations at §424.13(c) permit a physician to certify that the beneficiary's continued inpatient stay in the hospital is, in fact, medically necessary under this particular set of circumstances. If the services are reasonable and necessary, a hospital that is paid under the Inpatient Prospective Payment System (IPPS) continues to be paid under the IPPS, including any applicable outlier payments. Similarly, a hospital paid under the Outpatient Prospective Payment System (OPPS) continues to be paid under the OPPS for registered hospital outpatients, including any applicable outlier payments.

While a hospital would have ordinarily discharged an acute level of care inpatient to a SNF after a hospital inpatient stay, we note that under the blanket waivers issued during the PHE, the hospital is able to pursue swing bed approval if it believes it will encounter difficulty in placing a patient who requires a SNF level of care following a hospital stay.

SWING BED WAIVER DURING THE PHE

Who does the swing bed waiver apply to?

This waiver applies to all Medicare-certified enrolled hospitals, except psychiatric and long-term care hospitals, that undertake to provide post-hospital SNF level swing-bed services for non-acute care patients in hospitals, so long as the waiver is not inconsistent with the state's emergency preparedness or pandemic plan. The hospital shall not bill for SNF PPS payment using swing beds when patients require acute level care or continued acute care at any time while this waiver is in effect. This waiver is permissible for swing bed admissions during the COVID-19 PHE with an understanding that the hospital must have a plan to discharge swing bed patients as soon as practicable, either when a bed becomes available in a SNF, or when the PHE ends, whichever is earlier.

The patient's medical record must demonstrate the plan to discharge the SNF patients according to a discharge planning process that meets the requirements of section1861(ee) of the Act and implementing regulations at 42 CFR 482.43, "Discharge Planning". The hospital must have in effect a discharge planning process that focuses on the patient goals and treatment preferences and includes the patient and his or her caregivers support person(s) in the discharge planning for post-discharge care. The discharge planning process and the discharge plan must be consistent with the patient's goals for care and his or her treatment preferences.

Note: All other hospital conditions of participation and those SNF swing bed special requirements at 42 CFR 482.58(b) also apply, to the extent they are not also waived.

How do hospitals request approval for swing beds?

Under the swing bed waiver during the PHE, hospitals must call the Medicare provider enrollment hotline to add swing bed services. Contact information for the Medicare provider enrollment hotlines is available at https://www.cms.gov/files/document/provider-enrollment-relief-faqs-covid-19.pdf.

When calling the provider enrollment hotline, the hospital must attest to CMS that:

- they have made a good faith effort to exhaust all other options;
- there are no SNFs within the hospital's catchment area that under normal circumstances would have accepted SNF transfers, but are currently not willing to accept or able to take patients because of the COVID-19 PHE;
- the hospital meets all waiver eligibility requirements; and,
- they have a plan to discharge patients as soon as practicable, when a SNF bed becomes available, or when the PHE ends, whichever is earlier.

How can rural or urban hospitals qualify for the waiver?

In order to qualify for this waiver, hospitals must:

- not use SNF swing beds for acute level care;
- comply with all other hospital conditions of participation and those SNF provisions set out at 42 CFR 482.58(b) to the extent not waived; and
- be consistent with the state's emergency preparedness or pandemic plan.

My hospital is currently allowed to have swing beds under Medicare policy. Can my hospital increase the number of swing beds under this waiver? If so, how?

Under normal circumstances, hospitals and CAHs submit a Form CMS-855A to their MAC to request authority to offer swing bed services or to request an increase in the number of swing beds. For the duration of the PHE related to COVID-19, CMS has waived the requirements that CAHs limit the total number of beds to 25 (regardless whether they are acute care or swing beds) at 42 CFR 485.620. Under the CMS swing bed waiver during the PHE, hospitals and CAHs must call the CMS provider enrollment hotline to request swing bed approval or to request an increase to the number of swing beds.

When calling the provider enrollment hotline, the hospital must attest to CMS that:

- they have made a good faith effort to exhaust all other options;
- there are no skilled nursing facilities within the hospital's catchment area that under normal circumstances would have accepted SNF transfers, but are currently not willing to accept or able to take patients because of the COVID-19 PHE;
- the hospital meets all waiver eligibility requirements; and,
- they have a plan to discharge patients as soon as practicable, when a SNF bed becomes available, or when the PHE ends, whichever is earlier.

SWINGS BEDS AND THE REQUIRED MDS

Do hospitals exercising the SNF swing bed waiver need to complete an MDS Swing Bed Assessment to be paid under the SNF PPS?

Hospitals must complete comprehensive assessments of a swing bed patient's needs, strengths, goals, life history and preferences, using the MDS Resident Assessment Instrument (RAI) specified by CMS for patients receiving a SNF level of care. As stated in CFR §413.343(a) and (b), providers reimbursed under the SNF PPS are required to submit the resident assessment data described at §483.20 and therefore hospitals must complete the MDS Swing Bed Assessment for each patient to be paid under the SNF PPS.

Note: CAHs are not required to use the RAI (42 CFR 485.645(d)(6)); CMS exempts CAH swing bed services from the SNF PPS and pays them based on 101 percent of the reasonable cost of the services (see 42 CFR 413.114(a)(2)).

Is there a tool to help hospitals access the MDS Swing Bed Assessment?

Yes. The Resident Assessment Validation and Entry System (jRAVEN) was developed by CMS

and is a free Java based software application which provides an option for facilities to collect and maintain MDS Assessment data for subsequent submission to the appropriate state and/or national data repository. jRAVEN displays the MDS Item Sets similar to the paper version of the forms. For questions related to jRAVEN or technical support please contact the QTSO Help Desk by calling 800-339-9313 or by email to help@qtso.com.

What resources are available to hospitals for questions about completing the MDS?

Hospital providers may use the MDS RAI manual at https://downloads.cms.gov/files/mds-3.0-rai-manual-v1.17.1_october_2019.pdf. Providers may also request assistance from their MAC or from their state RAI coordinator. To find their RAI coordinator, providers should consult the list in Appendix B of the MDS RAI manual, which is available at https://www.cms.gov/files/document/appendix-b-03262020.pdf.

BILLING AND PAYMENT FOR SWING BED SERVICES

How do hospitals bill for patients located in a swing bed receiving a SNF Level of Care?

Medicare pays hospitals offering swing bed SNF-level services (excluding CAHs) under the SNF PPS. The SNF PPS covers all SNF services provided to beneficiaries in a Medicare Part A covered SNF stay (ancillary, routine, and capital), except certain specified services, which are separately billable to Part B. Instructions for swing bed billing are in Section 60.B of Chapter 3 of the Medicare Claims Processing Manual, which is available at https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/clm104c03.pdf. Questions on Medicare billing should be directed to your MAC.

How is the SNF PPS payment rate determined?

Information from the MDS RAI, including a variety of patient characteristics, such as the patient's primary diagnosis and comorbidities, is used in determining the case-mix group for SNF patients in a Medicare Part A covered stay under the SNF PPS Patient Driven Payment Model (PDPM) classification system. This case-mix group is recorded on the claim to determine the SNF PPS payment rate.

Where can hospitals find information on the SNF PPS PDPM?

Information on PDPM is at https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/SNFPPS/PDPM.

ADDITIONAL INFORMATION

What are the SNF provisions set out at 42 CFR 482.58(b)?

The Medicare hospital conditions of participation at **42 CFR 482.58(b) skilled nursing facility services**, requires that the hospital seeking approval for swing beds must be substantially in

compliance with the following skilled nursing facility requirements contained in subpart B of 42 CFR part 483:

(1) Resident rights (§ 483.10(b)(7), (c)(1), (c)(2)(iii), (c)(6), (d), (e)(2) and (4), (f)(4)(ii) and (iii), (h), (g)(8) and (17), and (g)(18) introductory text of this chapter).

(2) Admission, transfer, and discharge rights (§ 483.5 definition of transfer and discharge, § 483.15(c)(1), (c)(2)(i), (c)(2)(ii), (c)(3), (c)(4), (c)(5), and (c)(7)).

(3) Freedom from abuse, neglect, and exploitation (§ 483.12(a)(1), (a)(2), (a)(3)(i), (a)(3)(ii), (a)(4), (b)(1), (b)(2), (c)).

(4) Social services (§ 483.40(d)).

(5) Discharge summary (§ 483.20(l)). (Note: The regulations at §483.20(l) setting forth the requirements for a nursing home resident discharge summary was revised and re-designated as §483.21(c)(2) in 2016 (81 FR 68858, Oct. 4, 2016)).

(6) Specialized rehabilitative services (§ 483.65).

(7) Dental services (§ 483.55(a)(2), (3), (4), and (5) and (b)).

Please see SOM Appendix A for guidance on the 42 CFR 482.58(b) hospital requirements at https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap_a_hospitals.pdf.
Please also see SOM Appendix PP for the corresponding guidance for SNF requirements at 42 CFR 483 at https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/GuidanceforLawsAndRegulations/Downloads/Appendix-PP-State-Operations-Manual.pdf.

If you have questions, your MACs may have more information. Find their website at http://go.cms.gov/MAC-website-list.

DOCUMENT HISTORY

Date of Change	Description
May 20, 2020	Initial article released.