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FACT SHEET
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Skilled Nursing Facility 3-Day Rule Billing

What's Changed?

We added information about place of service codes 21, 31, and 32 (page 6).

Substantive content changes are in dark red.

CMS CENTERS FOR MEDICARE & MEDICAID SERVICES
Medicare Learning Network®

To qualify for skilled nursing facility (SNF) extended care services coverage, Medicare patients must meet the 3-day rule before SNF admission. The 3-day rule requires the patient have a medically necessary 3-consecutive-day inpatient hospital stay, which doesn't include the discharge day or pre-admission time spent in the emergency room (ER) or outpatient observation.

The 3-day rule also applies to hospitals and critical access hospitals (CAHs) approved to provide swing bed services for acute care or post-hospital SNF services.

SNF extended care services extend a patient's care after a hospital or swing bed discharge or within 30 calendar days of their hospital stay (unless admitting them within 30 calendar days is medically inappropriate).

Hospitals, including CAHs, should correctly communicate the number of inpatient days to SNFs and patients (or their representatives) to ensure all parties fully understand their potential payment liability.

The COVID-19 public health emergency (PHE) ended on May 11, 2023. View Infectious diseases for a list of waivers and flexibilities that were in place during the PHE.

Covered SNF Services

Section 1861(i) of the Social Security Act and 42 CFR 409.30 explain SNF extended care services coverage if a patient has a qualifying inpatient stay of at least **3 consecutive calendar days** starting with the admission day but not counting the discharge day.

- Improper payments occur when a hospital discharges an inpatient before they meet the 3-day rule and the SNF admits them for extended care services
  - Hospitals must correctly understand the 3-day rule to give accurate inpatient stay information and dates to SNFs and patients
  - SNFs must correctly understand the 3-day rule to avoid inappropriately submitting claims that don't meet the 3-day rule

3-Day Prior Hospitalization Before SNF Admission

Patients meet the 3-day rule by staying **3 consecutive days** in 1 or more hospitals. Hospitals **count the admission day but not the discharge day**. Time spent in the ER or outpatient observation before admission doesn't count toward the 3-day rule. Inpatient days are counted using the midnight-to-midnight method where a day begins at midnight and ends 24 hours later. A part of any day, including the admission day and the day a patient returns from a leave of absence, counts as a full day.

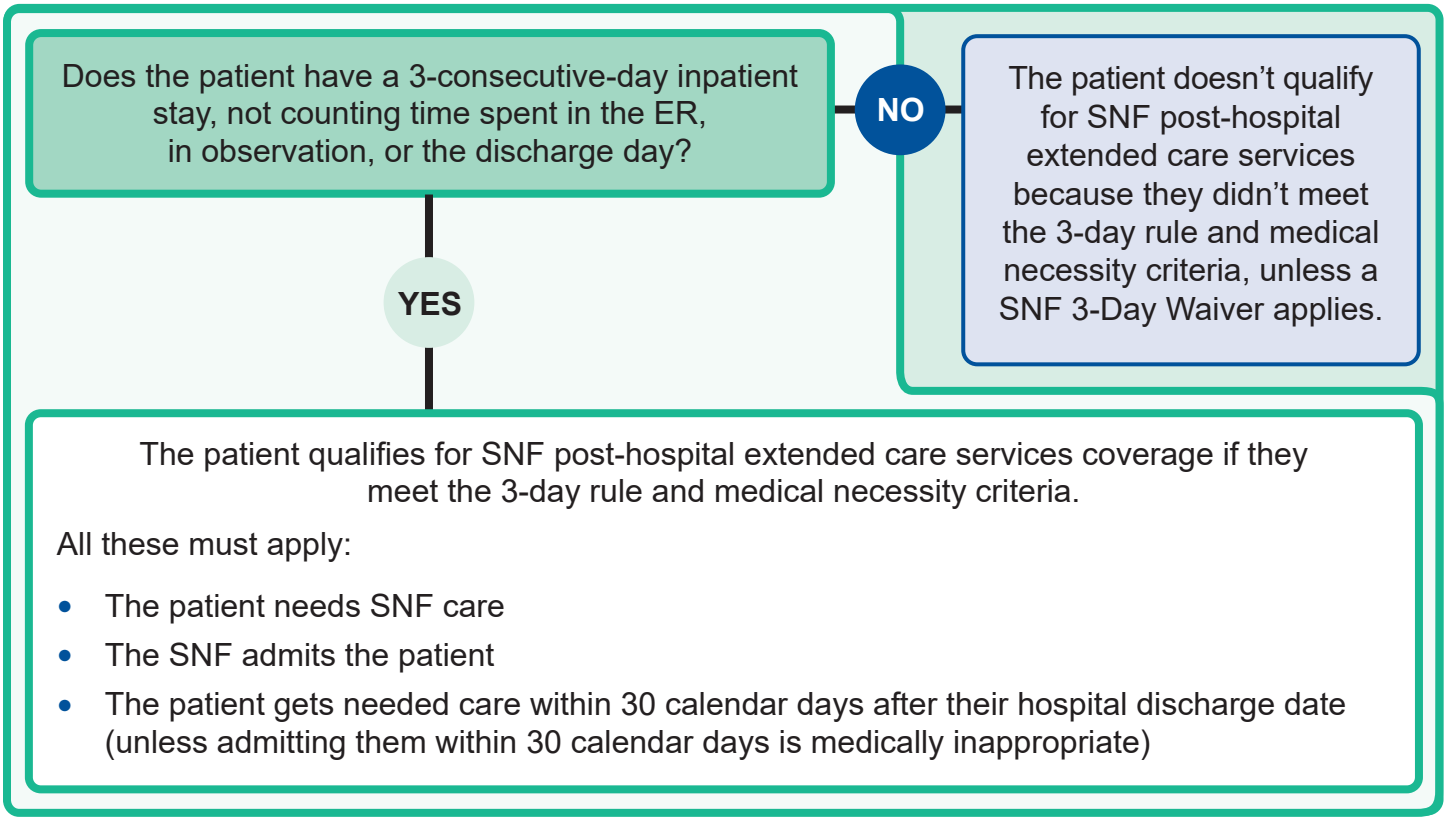
3-Day Rule Waiver

Certain Medicare Shared Savings Program Accountable Care Organization (ACO) participation options (called tracks) and CMS Innovation Center models offer an opportunity to use (or apply for, in the case of the Shared Savings Program) a SNF 3-Day Waiver. Some of the models include the ACO Reach, the Comprehensive Care for Joint Replacement Model, and the Bundled Payments for Care Improvement Advanced Model. The Shared Savings Program tracks and Innovation Center models offering a SNF 3-Day Waiver allow ACOs with an approved waiver or eligible model participants to offer SNF services without a prior 3-day inpatient hospitalization when the patient is admitted to a SNF on the CMS-approved list for the Shared Savings Program or the specific Innovation Center model.

Communicating SNF Services Coverage Rules

To help SNFs decide about Medicare-eligible inpatient claims billing and payment, hospitals should give SNFs and patients (or their representatives), including Medicare Advantage (MA) Plan enrollees, accurate inpatient hospital stay information. This information alone doesn't ensure MA Plan coverage.

This figure describes the relationship between hospitalization and skilled care, hospitalization and benefit period, and correctly communicating patient appeal rights.



Qualifying for SNF Extended Care Services

Medicare SNF Claims Processing

We use claims processing edits to verify SNF claims meet the 3-day rule. Specifically:

- SNFs must report occurrence span code 70, a code used to report qualifying stay dates for SNF use only, to report qualifying hospital stay dates of at least 3 consecutive calendar days, not counting the discharge date
- We reject a SNF claim if it includes an inpatient hospital stay of less than 3 consecutive calendar days, not counting the discharge date
- We reject a SNF claim if at least 1 date reported with occurrence span code 70 matches an incoming or previously posted inpatient hospital's claim service date found within 30 calendar days of the SNF admission and if hospital stay dates don't span 3 or more calendar days, not including the discharge date
- We allow SNF or hospital claim payment if they meet certain bypass criteria

Inpatient Hospital Days, SNF, & Hospital (Example)

Hospitals should clearly communicate to the patient (or their representative) and the SNF the number of inpatient days the patient spent in the hospital if the patient discharges to a SNF for extended care services. The SNF should verify the patient's hospital stay during admission to ensure the patient meets the 3-day rule.

- A patient went to a hospital ER after falling in her home and a physician admitted her to the hospital on April 16
- On April 18, the hospital discharged her to SNF extended care service coverage
- In this case, the patient didn't stay in the hospital long enough to satisfy the 3-day rule
  - Hospitals can count the admission day (April 16) but not the discharge day (April 18)
- The SNF staff told the patient and her representative she doesn't qualify for SNF extended care services coverage because she didn't stay in the hospital for 3 days, not counting the discharge day
- Our rules allow SNF extended care services coverage when the patient's hospital stay meets the 3-day rule
  - Since the patient's inpatient stay was 2 days, if she accepts SNF admission, she must pay the extended care services claim out of pocket unless she has other coverage

Inpatient and Non-Inpatient Hospital Days and SNF Claims Reporting (Example)

- On April 21, a patient got treatment from a hospital ER
- On April 22, a physician admitted him to the hospital
- On April 24, the physician discharged him for SNF extended care services
- The hospital incorrectly reported his inpatient stay as 3 days
  - The inpatient stay was only 2 days because the hospital can't count the discharge day or pre-admission time patient spent in the ER
- The SNF claim incorrectly reported qualifying inpatient dates in occurrence span code 70 as April 21–24, which inaccurately showed the hospital stay met the 3-day rule
  - This caused an incorrect SNF services claim payment
- If the SNF is at fault for the improper payment, it must return the overpayment to CMS within 60 calendar days of identifying the error

Place of Service Codes

Place of service (POS) codes identify where a patient gets a service. Enter the correct 2-digit code on Medicare claims to ensure proper payment for physician services provided to patients in inpatient facilities like SNFs and hospitals. POS codes frequently associated with SNF extended care services include:

- Inpatient hospital: 21
- SNF (with Part A coverage): 31
- Nursing facility (or SNF with no Part A coverage): 32

Financial Responsibility When There's No 3-Day Qualifying Inpatient Stay

We won't pay SNF extended care services when we deny coverage because there's no 3-day qualifying hospital inpatient stay. While CMS rules limit patient financial liability for certain denials, these protections don't apply when extended care services aren't covered due to lack of a qualifying inpatient stay.

If the patient doesn't have a 3-day qualifying hospital inpatient stay (the SNF coverage 3-day rule isn't met), we don't require the SNF to issue a Skilled Nursing Facility Advance Beneficiary Notice of Non-Coverage (SNFABN) (CMS-10055) to charge the patient for non-covered care. However, we strongly encourage SNFs to do so to ensure the patient (or the patient's representative) fully understands their liability for the stay's cost. The SNF ABN webpage has more information.

In situations when a contractor improperly paid a SNF for extended care services when the patient didn't have a qualifying inpatient stay, the contractor may assess an overpayment and recover it. Before recovering the overpayment, they must determine if the provider or patient was without fault for the overpayment under Section 1870 of the Social Security Act:

- If the contractor determines the provider is at fault for the overpayment (for example, the provider didn't exercise reasonable care in billing and knew or should've known it would cause an overpayment), they recover it from the SNF
- If the contractor determines the provider isn't at fault, we consider it a patient overpayment and won't recover it
- If the contractor determines the patient is at fault for the overpayment, they recover it from the patient
  - If recovery would cause the patient financial hardship or is against equity and good conscience, we may choose not to recover the overpayment
- If the contractor determines both the provider and patient aren't at fault for the overpayment, we pay for the non-covered SNF care

Resources

- 42 CFR 411.400
- CMS Improperly Paid Millions of Dollars for SNF Services When the Medicare 3-Day Inpatient Hospital Stay Requirement Was Not Met
- Medicare Benefit Policy Manual, Chapter 8
- Medicare Claims Processing Manual, Chapter 6
- Medicare Paid Millions More for Physician Services at Higher Nonfacility Rates Rather Than at Lower Facility Rates While Enrollees Were Inpatients of Facilities
- Skilled Nursing Facility Billing Reference
- SNF Prospective Payment System