mln
FACT SHEET
KNOWLEDGE • RESOURCES • TRAINING

Skilled Nursing Facility 3-Day Rule Billing

What's Changed?

Note: No substantive content updates.

CMS CENTERS FOR MEDICARE & MEDICAID SERVICES
Medicare Learning Network®

To qualify for skilled nursing facility (SNF) services coverage, Medicare patients must meet the "3-day rule" before SNF admission. The 3-day rule requires the patient to have a medically necessary 3-consecutive-day inpatient hospital stay, not including the discharge day or pre-admission time in the emergency department (ED) 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 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 and clearly communicate the number of inpatient days to SNFs and patients (or their representatives, as appropriate) during the stay and before discharge to make sure all parties fully understand their potential payment liability.

Covered SNF Services

Section 1861(i) of the Social Security Act and 42 CFR 409.30 explain SNF 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. Follow these basic guidelines:

- Hospitals must correctly understand the 3-day rule to give accurate inpatient or outpatient (or both) stay information and dates to SNFs and patients
- SNFs must correctly understand the 3-day rule to avoid submitting claims that don't meet the 3-day rule
- Patients (or their representatives, as appropriate) should understand their status at any given time during an inpatient or outpatient observation stay

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 ED or outpatient observation before admission doesn't count toward the 3-day rule. To count inpatient days, use the midnight-to-midnight method when a day starts 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 Rule Waiver. Models include:

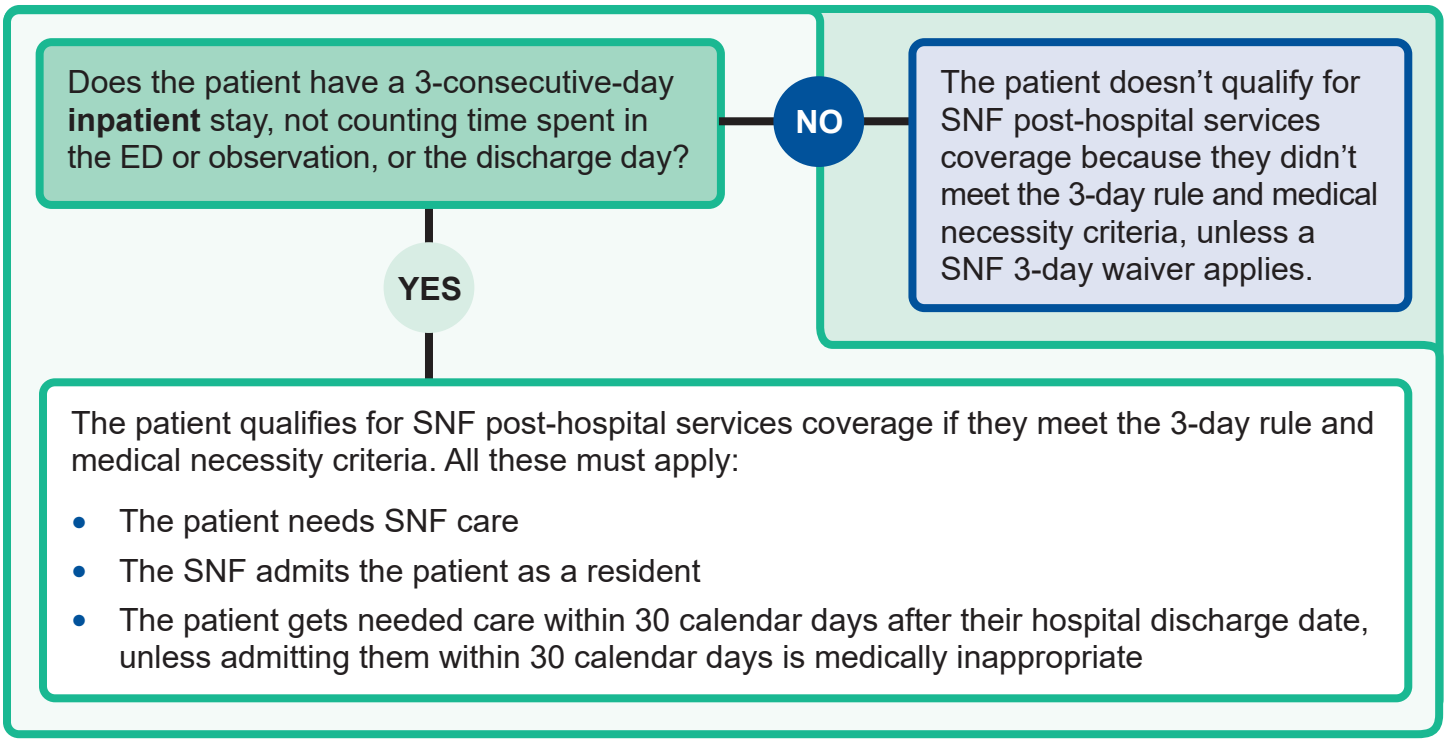
- ACO REACH
- Bundled Payments for Care Improvement Advanced Model

Participants in tracks and models, whether eligible through an approved SNF 3-day waiver or through participation in a model, can offer SNF services without a prior 3-day inpatient hospitalization. This waiver may apply when the patient meets eligibility criteria and is admitted to an approved SNF.

Communicating SNF Services Coverage Rules

To help SNFs determine Medicare-eligible inpatient claims, billing, and payment, hospitals should give SNFs and patients (or their representatives, as appropriate), 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 among hospitalization and skilled care, the hospitalization and benefit period, and correctly communicating patient appeal rights.



Qualifying for SNF Services

Medicare SNF Claims Processing

CMS uses claims processing edits to verify that SNF claims meet the 3-day rule. Specifically:

- SNFs must report occurrence span code 70, indicating 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 the 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

If the patient discharges to a SNF, hospitals should clearly communicate to the patient (or their representatives, as appropriate) and the SNF the number of inpatient days the patient spent in the hospital. The SNF should verify the patient's hospital stay during admission to make sure the patient meets the 3-day inpatient rule.

Examples

Inpatient Hospital Days: SNF & Hospital Communication

A patient went to a hospital ED after falling and getting injured in their home, and a physician admitted them to the hospital on April 16. On April 18, the hospital discharged them to a SNF.

In this case, the patient didn't stay in the hospital long enough to satisfy the 3-day rule because hospitals can count the admission day (April 16) but not the discharge day (April 18). The SNF staff told the patient they don't qualify for SNF coverage because they didn't stay in the hospital for 3 days, because the discharge day doesn't count.

Our rules allow SNF services coverage when the patient's hospital stay meets the 3-day rule. If the patient accepts SNF admission, since the patient's inpatient stay was only 2 days, they must pay for the SNF claim out of pocket unless they have other coverage.

Inpatient & Non-Inpatient Hospital Days: SNF Claims Reporting

On April 21, a hospital ED treated a patient, and on April 22, a physician admitted them to the hospital. On April 24, the physician discharged them for SNF services.

The hospital incorrectly reported their inpatient stay as 3 days, when the inpatient stay was only 2 days. The hospital can't count the discharge day or pre-admission time the patient spent in the ED.

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 and caused us to make an incorrect SNF services claim payment.

If the SNF is faulted for the improper payment, it must return the overpayment to us 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 services include:

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

A recent Office of Inspector General report revealed that physicians sometimes enter POS code 32, indicating they provided patient services in a nursing facility or during a non-covered SNF stay, when, in fact, the patient was covered under Part A. Use POS code 31 for services you provide during a Part A stay in a SNF.

Additionally, if a patient is seen in a physician's office but is also:

- An inpatient of a hospital, use POS code 21 for inpatient hospital
- A patient of a SNF (with Part A coverage), use POS code 31 for SNF
- A patient of a nursing facility or SNF (without Part A coverage), use POS code 32 for nursing facility

MLN Matters® article MM13767 has more information.

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

We won't pay for SNF services when we deny coverage because there's no 3-day qualifying hospital inpatient stay. While our rules limit patient financial liability for certain denials, these protections don't apply when SNF 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 (and doesn't meet the SNF coverage 3-day rule), we don't require the SNF to issue a Skilled Nursing Facility Advance Beneficiary Notice of Non-Coverage (SNF ABN) (CMS-10055) to charge the patient for non-covered care. However, we strongly encourage SNFs do so, making sure the patient (or their representatives, as appropriate) fully understands their liability for the stay's cost. SNF ABN has more information.

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

- 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 for the overpayment, we consider it a patient overpayment and won't recover it
- If the contractor determines the patient is at fault for the overpayment, they can recover it from the patient but may choose not to because recovering the payment:
  - Would cause the patient financial hardship
  - Is against equity and good conscience
- 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
- Skilled Nursing Facility Billing Reference
- SNF Prospective Payment System