

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
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Baltimore, Maryland 21244-1850



Center for Medicare

DATE:

TO: Seema Verma
Administrator

FROM: Demetrios Kouzoukas *DK*
Principal Deputy Administrator for Medicare and Director, Center for Medicare

SUBJECT: Authority for Beneficiaries Affected by Hurricane Dorian in the State of Florida in 2019 to Receive Nursing Home Coverage (a) without a 3 day Hospitalization and (b) in the Absence of a Break in the Spell of Illness - **ACTION**

ISSUE

By law, Medicare generally only pays for care in a skilled nursing facility (SNF) when a beneficiary first has an inpatient hospital stay of at least 3 consecutive days and has established a new SNF benefit period requiring at least 60 consecutive days in a non-institutional or custodial level of care. We believe that it would be appropriate to provide temporary emergency coverage of SNF services that are not post-hospital SNF services under our authority in section 1812(f) of the Social Security Act (the Act), for those people who are evacuated, transferred, or otherwise dislocated as a result of the effect of the above-captioned disaster. This policy is necessary because we are aware that, in such a situation, it can often be impossible for providers to determine whether the 3-day stay requirement has been met.

In addition, we recommend recognizing special circumstances for those 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). We recommend utilizing our 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. The beneficiary could then receive up to 100 days of SNF Part A coverage for care needed as a result of the current disaster.

These temporary emergency policies would apply to the timeframes and geographic areas specified in the waiver(s) issued under section 1135 of the Act pursuant to the above-captioned 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. Further, unlike the policies authorized directly under the section 1135 waiver authority itself, the two policies described above would not be limited to beneficiaries who have been relocated within areas that have been designated as emergency areas. Instead, the policies would apply to all beneficiaries who were evacuated from an emergency area as a result of this disaster, regardless of where the “host” SNF providing post-disaster care is located.

DISCUSSION

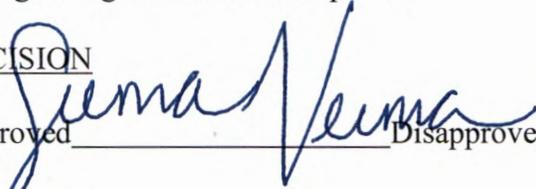
Section 1861(i) of the Act permits Medicare payment for SNF care only when a beneficiary first has an inpatient hospital stay of at least 3 consecutive days. However, section 1812(f) of the Act allows for coverage of SNF care when the 3-day requirement is not met if we determine that such coverage will not increase total payments made under the Medicare program or change the essential acute-care nature of the SNF benefit. CMS believes that, because of the disruptions in hospital care resulting from the above-captioned disaster, hospitals serving disaster areas may need to discharge less critically-ill beneficiaries to a SNF sooner than usual due to overcrowding. Not allowing this would unfairly disadvantage beneficiaries who, under normal circumstances, would qualify for Medicare coverage of their SNF care. There may also be cases in which skilled care is needed, and there is no available hospital bed due to the disaster. Again, applying the 3-day requirement could deny beneficiaries coverage to which they would have been entitled absent the disaster.

In addition, many beneficiaries who otherwise would have been able to end their spell of illness and renew their SNF benefits may have been prevented from doing so due to the dislocations resulting from the effect of this disaster. For example, beneficiaries who were evacuated from their homes may have experienced treatment delays in emergency shelters. As a result, their conditions deteriorated, and they were transferred from these emergency centers to nursing homes. Under existing policy, such beneficiaries would not be able to break their spells of illness and renew their SNF benefits.

RECOMMENDATION

I recommend you sign the attached statement of findings to support our decision to provide Medicare SNF coverage without a 3-day hospital stay requirement for beneficiaries affected by the above-captioned disaster, and also to allow such beneficiaries to renew their benefits without having to begin a new benefit period.

DECISION

Approved  Disapproved _____ Date **AUG 30 2019**

Attachment:

Tab A – Statement for Administrator’s Signature