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## Understanding the 1812(f) Waivers

Using the authority under Section 1812(f) of the Act, CMS is waiving the requirement for a three-day prior hospitalization for coverage of a SNF stay, which provides temporary emergency coverage of SNF services without a qualifying hospital stay, for those people who experience dislocations, or are otherwise affected by COVID-19. In addition, for certain beneficiaries who recently exhausted their SNF benefits, it authorizes renewed SNF coverage without first having to start a new benefit period. This waiver will apply only for those beneficiaries who have been delayed or prevented by the emergency itself from commencing or completing the process of ending their current benefit period and renewing their SNF benefits that would have occurred under normal circumstances. CMS has stated the 1812f waiver was implemented to keep hospital beds available for more acutely ill patients. When utilizing these waivers, facilities must ensure documentation supports the use is related to the emergency.

- The three-day qualifying hospital stay waiver is only waiving the required hospital stay so that the resident can access their Medicare benefits.
- The 60-day extended care services waiver is used when a patient has exhausted their traditional 100 days and have been delayed or prevented by the emergency itself from commencing or completing the process of ending their current benefit period and renewing their SNF benefits that would have occurred under normal circumstances. Regardless of whatever skilled services the patient is receiving, if they continue receiving those skilled services after they exhaust their benefits, they would not be eligible for the extended benefit waiver.

The following are scenarios and answers on how to apply the components of this waiver:

### Scenario One:

- The facility uses the three-day waiver on a patient who has not had a qualifying hospital stay, but they have a skilled need due to a diagnosis of pneumonia and decline in functional

status. They use seven days of the traditional Medicare benefit then the facility discharges them off Medicare Part A and the patient remains in the building. Twenty-one days later the patient is admitted to the hospital for a fall with a fracture. They have a three-day qualifying stay. Do they use the 93 days remaining in their first benefit period or do they start the 100 traditional days after a three-day qualifying stay?

- Since the three-day qualifying stay waiver just waived the hospital qualifying stay they would have 93 days available. Then if they exhaust those benefit days, they can use the 60-day extended care benefits waiver for an additional 100 days as long as they qualify and meet the criteria.

### Scenario Two:

- The same patient who used the three-day waiver, exhausted their benefits but requires additional days due to a fall that caused a hip fracture. Would this patient be eligible for the 60-day extended care services waiver?
- No, because the skilled services are unrelated to the COVID-19 emergency and they cannot renew his or her SNF benefits under the section 1812(f) waiver as it is this continued skilled care in the SNF rather than the emergency that is preventing the beneficiary from beginning the 60-day wellness period.

### Scenario Three:

- We have used the three-day qualifying stay waiver for a patient. If they have a 60-day well period can we utilize the three-day qualifying stay waiver again?
- Yes, because they had a 60-day well period and they would be eligible for their traditional 100 days and the qualifying stay waiver is only waiving the three-day qualifying stay.

### Scenario Four:

- If a resident is under a traditional Medicare Part A stay, then exhausts their benefits but continues to need five days a week therapy, can we use the 60-day extended benefits waiver for a COVID-19 related issue?



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- Yes, as long as the extension is related to emergency of keeping hospital beds available for more acutely ill patients.

Scenario Five:

- If a resident does not have a three-day hospital stay because the hospital in their area is at maximum capacity or needing to keep beds available for acutely ill patients, can we access their traditional 100 days for Medicare Part A under the three-day qualifying stay waiver? If the same resident exhausts these days and 40 days later meets skilling guidelines and it is related to COVID-19, can we skill them again under the waiver?
- Yes, that is correct. According to CMS, a COVID-19 diagnosis would not in and of itself automatically serve to qualify a beneficiary for coverage under the Medicare Part A SNF benefit. That is because SNF coverage is not based on particular diagnoses or medical conditions, but rather on whether the beneficiary meets the statutorily prescribed SNF level of care definition of needing and receiving skilled services on a daily basis which, as a practical matter, can only be provided in a SNF on an inpatient basis.

Scenario Six:

- A resident utilized 91 days under their traditional Medicare. Forty days later they become COVID-19 positive and are transferred to another facility with a COVID-19 unit. That facility skills them for eight days using the QHS waiver then they return to the first facility who skills them the one remaining day left from their 100 traditional Medicare days. She has now exhausted her benefits. Would she qualify for the extended care benefits of 100 days?
- If the patient still had signs and symptoms of COVID-19 and the daily skilled services were related to COVID-19 then yes, this patient would qualify for the extended care benefits of 100 days. If the patient was just COVID-19 positive and did not have any signs and symptoms of COVID-19, then they would not be eligible for the extended care benefits. The extended care benefits will apply only for those beneficiaries who have been delayed or prevented by the emergency itself from commencing or completing the process of ending their current benefit period and renewing their SNF benefits that would have occurred under normal circumstances.

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