April 2, 2020

Covid-19 Post-Acute Care Regulatory Changes

March 13, 2020 – Skilled Nursing Facilities
CMS is waiving the requirement at Section 1812(f) of the Social Security Act for a 3-day prior hospitalization for coverage of a skilled nursing facility (SNF) stay provides temporary emergency coverage of (SNF) services without a qualifying hospital stay, for those people who need to be transferred as a result of the effect of a disaster or emergency. 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.

Second, CMS is waiving 42 CFR 483.20 to provides relief to SNFs on the timeframe requirements for Minimum Data Set assessments and transmission.

March 23, 2020 –
The Centers for Medicare & Medicaid Services (CMS) clarified its position on the use of swing beds, saying that swing beds can accept patients without a three-day inpatient stay. In a question and answer response to the issue, CMS stated the following:

Question:
Does waiving the requirement at Section 1812(f) of the Social Security Act for a 3-day prior hospitalization for coverage of a skilled nursing facility (SNF) stay apply to swing-bed services furnished by Critical Access Hospitals (CAHs) and rural (non-CAH) swing-bed hospitals?
March 27, 2020 — CARES Act Includes Provisions Related to the Three-Hour Rule for IRFs.

The Coronavirus Aid, Relief, and Economic Security (CARES) Act included provisions that would waive the requirement that a Medicare beneficiary be expected to participate in at least three hours of intensive therapy, at least five days per week. This provision would improve patient access to care and assist organizations in patient transitions.

The specific language related to inpatient rehabilitation facilities (IRFs) is noted below:

Section 3711. Increasing Medicare Access to Post-Acute Care: This section would provide acute-care hospitals flexibility, during the COVID-19 emergency period, to transfer patients out of their facilities and
into alternative care settings in order to prioritize resources needed to treat COVID-19 cases. Specifically, this section would waive the Inpatient Rehabilitation Facility (IRF) three-hour rule, which requires that a beneficiary be expected to participate in at least three hours of intensive rehabilitation at least five days per week to be admitted to an IRF.

What This Means to IRFs and Patients
By allowing IRFs more leeway in accepting patients who are appropriate for IRF but have lower tolerance, this rule provides better access for patients who require rehabilitation services. Additionally, the ruling allows IRFs to support acute-care hospitals with earlier transfer to post-acute rehabilitation, thus freeing acute beds for patients who require those services.