New CMS Waiver for Swing Beds

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EDITOR’S NOTE: In a surprise move, the Centers for Medicare & Medicaid Services (CMS) released a new waiver on May 11, allowing all acute-care hospitals to use their beds for “swing bed services” when necessary. Dr. Ronald Hirsch, vice president of R1 RCM, explained with the below guidance.

CMS understands that the COVID-19 pandemic has hit skilled nursing facilities (SNFs) hard, and they have heard on multiple calls that hospitals are having trouble finding such facilities to accept their patients who require skilled care.

On two calls, CMS has been asked if hospitals who have patients sent from SNFs with minor or no symptoms can admit them as inpatients, as the SNF is often unable or unwilling to accept the patient back because of the need for negative tests. Both times, CMS representatives fell back on the two-midnight rule and the need for medical necessity for hospital care, indicating that inpatient admission was not warranted under such circumstances. This often left hospitals caring for these patients with little or no reimbursement.

This new waiver allows hospitals that cannot find an accepting SNF in their catchment area to provide “swing bed services” in their acute-care beds, as do critical access hospitals (CAHs) and rural hospitals.

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SNF in their catchment area to provide “swing bed services” in their acute-care beds, as do critical access hospitals (CAHs) and rural hospitals. A “swing bed” is best described as having the ability to offer Part A skilled nursing care, which would ordinarily require transfer of a patient to a nursing facility, in an acute-care hospital bed instead.

In ordinary times, this is used when an acute-care patient is admitted to a CAH or rural hospital, stays three or more days as an inpatient, and subsequently requires skilled rehabilitation care. The patient can remain in the same facility and receive skilled care with the same Part A coverage as in a SNF.

CMS has noted in the waiver that the hospital must make a good-faith effort to find an alternative facility within the catchment area; they must have a plan to discharge such patients as soon as a SNF bed becomes available or the public health emergency (PHE) ends; they must meet the applicable conditions of participation for SNFs, as listed at 42 CFR 482.58(b); and they must apply for this waiver via their Medicare Administrative Contractor’s (MAC’s) enrollment hotline. Patients can be admitted to these beds without a qualifying three-day inpatient admission, and the DR condition code should be applied to the claim. Unless the hospital or health system already has affiliated SNFs or uses swing beds, they will need to work with the MAC or other providers to ensure that the appropriate care is provided, the appropriate documentation is kept, and the claim is billed compliantly.

This waiver should come as welcome news for many hospitals. It will provide the ability to get paid for caring for patients during their rehabilitation, until a SNF can be found. Unfortunately, it does not address care provided to patients who were receiving long-term custodial care in a nursing facility and were transferred to the hospital (not because of a change in their medical condition, but rather due to an outbreak at the facility). In this case, there is not yet a viable solution. Since many of these patients are covered by Medicaid, hospitals should be in contact with their state Medicaid providers to discuss payment for the care provided during their custodial hospital stay.