



Skilled Nursing Facility 3-Day Rule Billing



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What's Changed?

- Added information on temporary emergency coverage for Skilled Nursing Facilities (SNFs) without a qualifying hospital stay due to the COVID-19 public health emergency.

You'll find substantive content updates in dark red font.

Introduction

To qualify for Skilled Nursing Facility (SNF) extended care services coverage, Medicare patients must meet the 3-day rule before SNF admission. The 3-day rule requires the patient have a medically necessary 3-day-consecutive inpatient hospital stay. The 3-day-consecutive stay count doesn't include the day of discharge, or any pre-admission time spent in the ER or outpatient observation.

SNF extended care services are an extension of care a patient needs after a hospital discharge or within 30 days of their hospital stay (unless admitting them within 30 days is medically inappropriate). To qualify for SNF extended care services coverage, Medicare patients must meet the 3-day rule before SNF admission. The 3-day rule requires the patient have a medically necessary 3-day-consecutive inpatient hospital stay. The 3-day-consecutive stay count doesn't include the day of discharge, or any pre-admission time spent in the ER or outpatient observation.

This fact sheet describes the 3-day rule and how it affects payment and how hospitals should correctly communicate the number of inpatient days to SNFs and patients (or their representatives). Communication is key so all parties fully understand the potential payment liability.

Covered SNF Services

[SSA Section 1861\(i\)](#) and [42 CFR Section 409.30](#) specify Medicare covers SNF services, **if** the patient has a qualifying inpatient stay in a hospital of at least **3 consecutive calendar days**, starting with the calendar day of hospital admission but not counting the day of discharge.

- Improper payments may occur when a hospital discharges a Medicare inpatient before they meet the 3-day rule, and the SNF admits them for extended care services.
 - Hospitals must correctly understand the 3-day rule, so they give accurate inpatient stay information dates to SNFs and patients.
 - SNFs must correctly understand the 3-day rule to avoid inappropriately submitting claims that **don't** meet the 3-day rule.

3-Day Prior Hospitalization Before SNF Admission

Medicare inpatients meet the 3-day rule by staying **3 consecutive days** in 1 or more hospital(s). Hospitals **count the admission day but not the discharge day**. Time spent in the ER or outpatient observation before admission **doesn't** count toward the 3-day rule.

3-Day Rule Waiver

There are certain [Shared Savings Program](#) (SSP) participation options (known as tracks) and CMS's Center for Medicare and Medicaid Innovation (Innovation Center) models that offer a 3-Day SNF Waiver. Some of the models include the [Next Generation ACO Model](#), the [Comprehensive Care for Joint Replacement Model](#), and the [Bundled Payments for Care Improvement Advanced Model](#). The SSP and Innovation Center models that offer a 3-Day SNF Waiver allow participants using the waiver to offer SNF services without a prior 3-day inpatient hospitalization when the patient is admitted to a SNF included on a CMS approved list for SSP or the specific Innovation Center model.

3-Day Waiver During COVID-19 Public Health Emergency

We authorized [SSA Section 1812\(f\)](#) to waive the 3-day prior hospitalization requirement for a Medicare SNF covered stay. This gives temporary SNF services emergency coverage without a qualifying hospital stay for patients who experience dislocations or are affected by COVID-19. Find the [List of Blanket Waivers](#) on the [Current Emergencies](#) webpage.

Communicating Medicare SNF Services Coverage Rules

To help SNFs make informed decisions about Medicare-eligible inpatient claims billing and payment, hospitals should give SNFs and patients (or their representatives) accurate inpatient hospital stay information. Depending on the patient's status, facilities can use the [Medicare Outpatient Observation Notice](#) (MOON), the [Important Message From Medicare](#) (IM), or the [Are You a Hospital Inpatient or Outpatient?](#) documents to share information.

Figure 1 describes the relationship between observation services and the 3-day rule; the effect observation services may have on eligibility for extended care services; hospitals correctly communicating to a patient (or their representative) about observation services and SNF admission; and what type of claim, if any, to submit to Medicare.

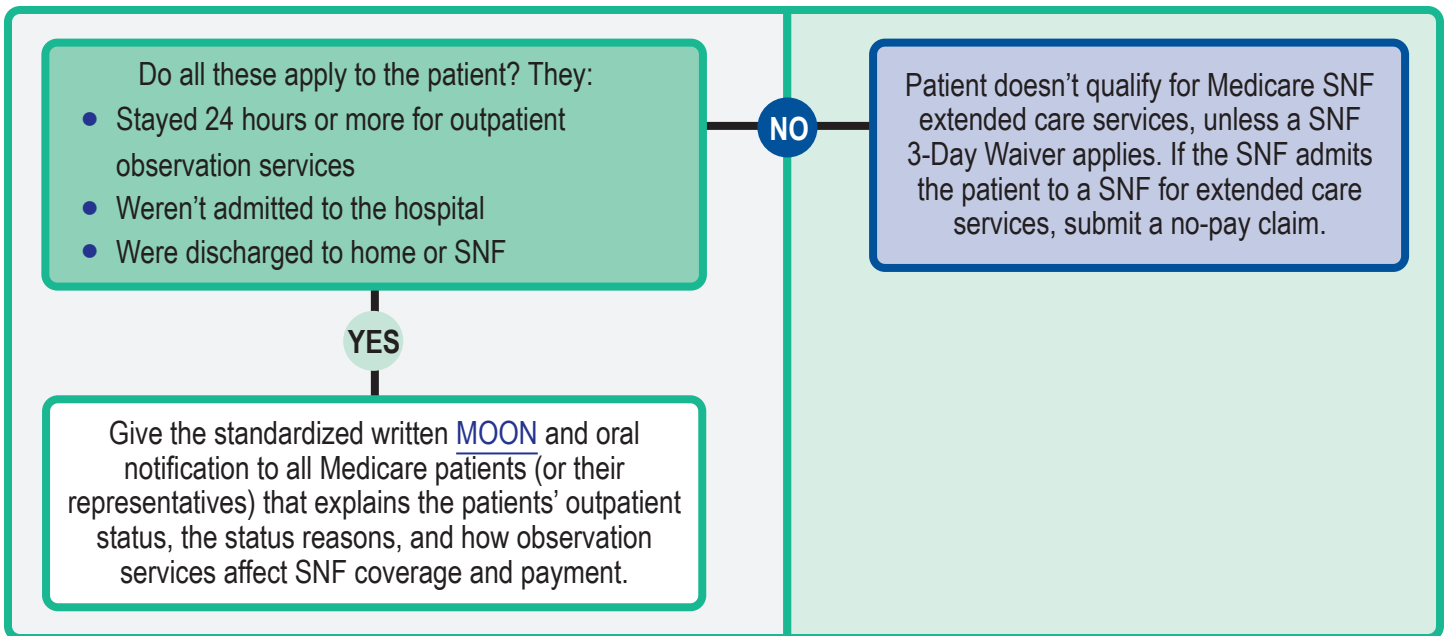


Figure 1. Using the MOON

Figure 2 describes the relationship between hospitalization and skilled care, hospitalization and the benefit period, and correctly communicating patient appeal rights.

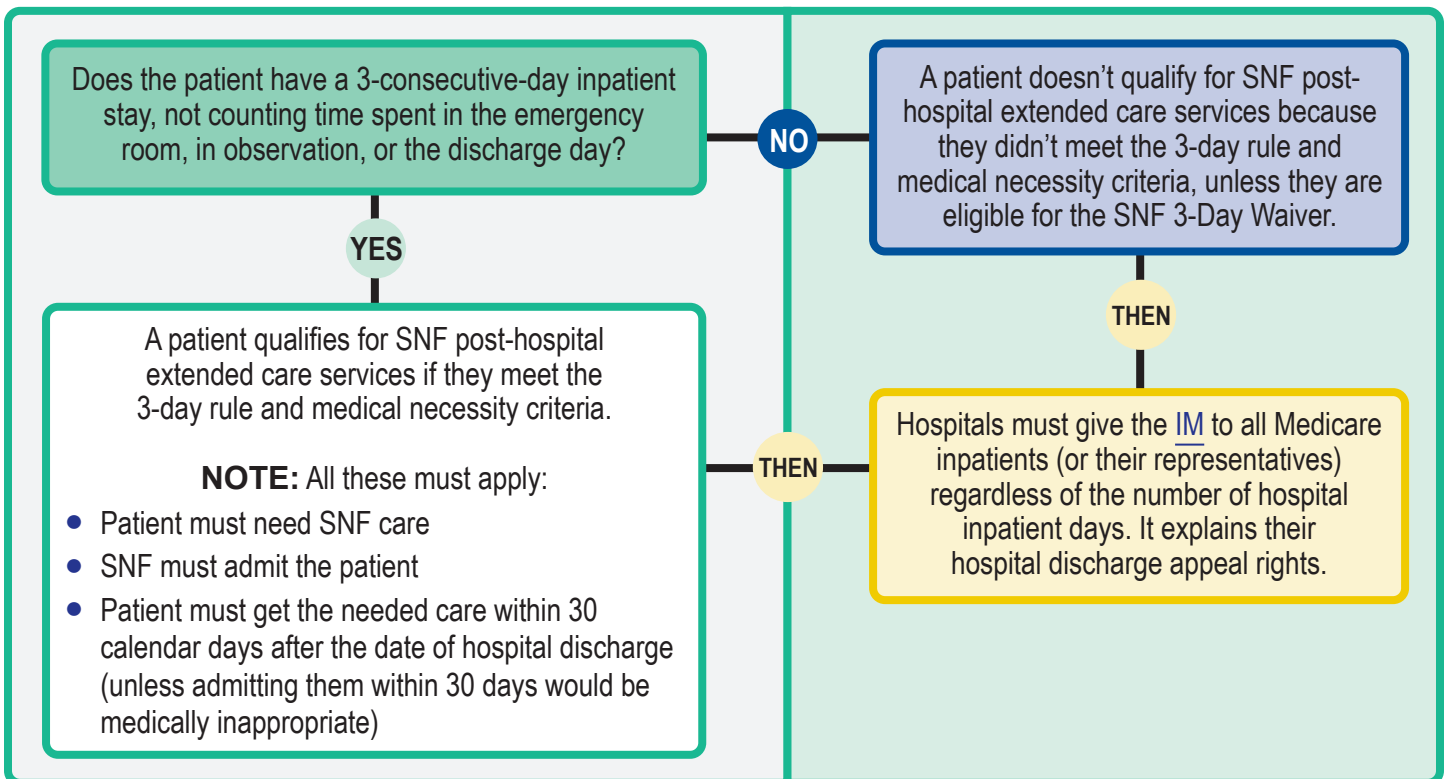


Figure 2. Using the IM

Medicare SNF Claims Processing

Medicare has claims processing edits to verify SNF claims meet the 3-day rule. Specifically:

- SNFs must report occurrence span code 70 when reporting the dates of a qualifying hospital stay of at least 3 consecutive calendar days, not counting the discharge date
- We reject a SNF claim if it includes an inpatient hospital stay 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 dates found within 30 days of the SNF admission, and **the hospital stay dates don't span 3 or more calendar days**, not including the discharge date
- We allow the SNF or hospital claim payment if they meet certain bypass criteria

Inpatient Hospital Stay Days, SNF, & Hospital (Example)

Hospitals should clearly communicate to the patient (or their representative) and the SNF the number of inpatient days stayed in the hospital if the patient is discharging to a SNF for extended care services. The SNF should verify the patient's hospital stay during SNF admission to ensure the patient met the 3-day rule.

A patient went to a hospital ER after falling in her home and a physician admitted her to the hospital on April 16. On April 18, the hospital discharged her to SNF extended care services. In this case, the patient didn't stay in the hospital long enough to satisfy the 3-day rule. Hospitals can count the admission day (April 16), but not the discharge day (April 18).

SNF staff gave the patient and their representative an IM and proactively told the patient and her representative she doesn't qualify for SNF coverage because she didn't stay in the hospital 3 days, not counting discharge. Medicare rules allow SNF stay coverage when the patient's hospital stay meets the 3-day rule. Since the patient's inpatient stay was 2 days, if she accepts the SNF admission, she must pay the extended care services claim out-of-pocket unless she has other coverage.

Inpatient and Non-Inpatient Hospital Stay Days and SNF Claims Reporting (Example)

A patient went to a hospital ER for treatment on April 21. On April 22, the physician admitted him to the hospital. On April 24, the physician discharged him for SNF extended care services. The hospital claim incorrectly reported the inpatient stay as 3 days.

The inpatient stay was only 2 days, because the hospital can't count the day of discharge or the pre-admission time the patient spent in the ER. The associated SNF claim **incorrectly** reported the qualifying inpatient dates in occurrence span code 70 as April 21–24, which inaccurately showed the hospital stay met the 3-day rule. This caused the SNF services claim payment in error. If the SNF is at fault for the improper payment, it becomes liable to return the overpayment to CMS within 60 days of identifying the overpayment error.

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

Medicare **won't** pay for extended care services in a SNF when we deny coverage because there was no 3-day qualifying hospital inpatient stay. While Medicare rules limit patient financial liability for certain denials, these protections don't apply when extended care services aren't covered due to the lack of a qualifying inpatient stay.

- If there's no 3-day qualifying hospital inpatient stay (that is, the 3-day rule for SNF coverage isn't met), Medicare **doesn't** require the SNF to issue a [Skilled Nursing Facility Advance Beneficiary Notice of Non-Coverage \(SNFABN\) \(Form CMS-10055\)](#) to charge the patient for non-covered care. However, we strongly encourage SNFs to do so, because the SNF doesn't expect Medicare payment and the patient (or the patient's representative) should fully understand the patient's liability for the stay's cost. See the [SNF ABN webpage](#) for more information.

In situations where a Medicare contractor made an improper payment for extended care services to a SNF where the patient didn't have a qualifying inpatient stay, the contractor may assess an overpayment and recover the improper payment. Before recovering the overpayment, they **must** determine whether the provider or patient was without fault with respect to the overpayment under [SSA Section 1870](#).

- 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 have known it would cause an overpayment), then the contractor recovers the overpayment from the SNF.
- If the contractor determines the **provider isn't at fault**, Medicare won't recover the provider overpayment and considers it a patient overpayment.
- If the contractor determines the **patient is at fault for the overpayment**, then Medicare recovers the overpayment from the patient. However, if recovery would cause the patient financial hardship or is against equity and good conscience, Medicare may choose not to recover the overpayment from the patient.
- If the contractor determines both the **provider and patient aren't at fault for the overpayment**, Medicare pays for non-covered SNF care.

Resources

- [42 CFR Section 411.400](#)
- [CMS Improperly Paid Millions of Dollars for SNF Services When the 3-Day Inpatient Stay was Not Met](#)
- [Medicare Claims Processing Manual, Chapter 6](#)
- [Medicare Benefit Policy Manual, Chapter 8](#)
- [Medicare Claims Processing Manual, Chapter 30](#)
- [Medicare Financial Management Manual, Chapter 3, Sections 70.3\(C\), 90, 100](#)
- [SNF Billing Reference](#)

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