



Medicare Shared Savings Program (Shared Savings Program) Skilled Nursing Facility (SNF) Affiliates' Requirement to Include Demonstration Code 77 on SNF 3-Day Rule Waiver Claims

MLN Matters Number: MM11290

Related Change Request (CR) Number: 11290

Related CR Release Date: August 2, 2019

Effective Date: January 1, 2020

Related CR Transmittal Number: R2330OTN

Implementation Date: January 6, 2020

PROVIDER TYPES AFFECTED

This MLN Matters Article is for Skilled Nursing Facilities (SNFs) and hospitals and Critical Access Hospitals (CAHs) operating under swing bed agreements who are eligible and approved as SNF affiliates of Accountable Care Organizations (ACOs) participating in the Medicare Shared Savings Program (Shared Savings Program) and submitting claims to Medicare Administrative Contractors (MACs) for SNF services provided to Medicare beneficiaries under a SNF 3-day rule waiver.

PROVIDER ACTION NEEDED

CR 11290 requires SNF affiliates of ACOs participating in the Shared Savings Program to include demonstration code 77 in the treatment authorization field on claims when the SNF affiliate intends for the claim to be subject to the SNF 3-day rule waiver. Beginning with admissions on or after January 1, 2020, ACO SNF affiliates need to submit demonstration code 77 on claims in the treatment authorization field to serve as the SNF affiliate's attestation that the eligibility requirements for using a SNF 3-Day Rule Waiver have been met. Should Medicare systems determine the beneficiary is deemed ineligible for services under the demonstration code 77, MACs will reject the claim with the following messages:

- Claim Adjustment Reason Code (CARC) 272: Coverage/program guidelines were not met.
- Remittance Advice Remark Code (RARC) N564: Patient did not meet the inclusion criteria for the demonstration project or pilot program.

This waiver is only available to ACOs that are eligible and approved to use the SNF 3-day rule waiver. Make sure your SNF billing staffs are aware of the requirement to include demonstration code 77 in the treatment authorization field.

BACKGROUND

The Medicare SNF benefit is for beneficiaries who are assignable or prospectively assigned to an eligible and approved ACO and require a short-term intensive stay in a SNF and requires skilled nursing or rehabilitation care. Section 1861(i) of the Social Security Act (the Act) requires beneficiaries to have a prior inpatient hospital stay of no fewer than three consecutive days to be eligible for inpatient SNF care to be covered by Medicare. This requirement is the SNF 3-day rule.

CMS understands it could be medically appropriate for some patients to receive skilled nursing care or rehabilitation services provided at SNFs without prior hospitalization or with an inpatient hospital stay of fewer than 3 days.

The Shared Savings Program payment incentives and care delivery rules are designed to enable its ACO participants to improve the quality of care while reducing the rate of growth in expenditures. CMS implemented a waiver for the SNF 3-day rule to enable certain eligible and approved Shared Savings Program ACOs to select the most appropriate care delivery site for a subset of SNF-eligible beneficiaries while reducing expenditures through care improvement. This waiver is only available to eligible and approved ACOs participating in the Shared Savings Program.

CMS proposed and finalized through rulemaking (80 Federal Register (FR) 32692) a waiver of the prior 3-day inpatient hospitalization requirement in order to provide Medicare SNF coverage when certain beneficiaries, assigned to Shared Savings Program ACOs that are eligible and approved to use the SNF 3-day rule waiver, are admitted to designated SNF affiliates either directly or after fewer than three inpatient hospital days. The waiver is available for eligible and approved Shared Savings Program ACOs that demonstrate the capacity and infrastructure to identify and manage beneficiaries who would be either directly admitted to a SNF or admitted to a SNF after an inpatient hospital stay of fewer than 3 days, for services otherwise covered under the Medicare SNF benefit. Beneficiaries with certain characteristics who are assigned to a Shared Savings Program ACO may be admitted to qualifying SNF affiliates, based upon the referral of a treating physician who is an ACO provider/supplier. All other requirements for the Medicare SNF benefit remain unchanged.

CR 11290 requires SNF affiliates (including hospitals and Critical Access Hospitals (CAHs) operating under swing bed agreements and partnering with ACOs as SNF affiliates) to include demonstration code 77 in the treatment authorization code field on claims when the SNF affiliate intends for CMS to waive the 3-day qualifying hospital stay requirement. Including demonstration code 77 in the treatment authorization code field provides an attestation on behalf of the SNF affiliate that the eligibility requirements for Medicare to make payment for services provided pursuant to the SNF 3-day rule waiver have been met.

Eligibility requirements include, but are not limited to, the beneficiary having been evaluated and approved for admission to the SNF within 3 days prior to the SNF admission by an ACO

provider/supplier that is a physician, consistent with the ACO's beneficiary evaluation and admission plan.

Information regarding the eligibility requirements is found in the "SNF Nursing Facility 3-Day Rule Waiver," guidance document in the "Program Guidance & Specifications," section of the Shared Savings Program webpage at <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/sharesavingsprogram/index.html>.

A current list of eligible and approved ACOs and their SNF affiliates approved to use this waiver is available and updated annually at the Data.CMS.gov webpage at <https://data.cms.gov/browse?category=Special+Programs%2FInitiatives+-+Medicare+Shared+Savings+Program+%28MSSP%29&page=1>

ADDITIONAL INFORMATION

The official instruction, CR 11290, issued to your MAC regarding this change is available at <https://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/2019Downloads/R23300TN.pdf>.

If you have questions, your MACs may have more information. Find their website at <http://go.cms.gov/MAC-website-list>.

DOCUMENT HISTORY

Date of Change	Description
August 2, 2019	Initial article released.

Disclaimer: This article was prepared as a service to the public and is not intended to grant rights or impose obligations. This article may contain references or links to statutes, regulations, or other policy materials. The information provided is only intended to be a general summary. It is not intended to take the place of either the written law or regulations. We encourage readers to review the specific statutes, regulations and other interpretive materials for a full and accurate statement of their contents. CPT only copyright 2018 American Medical Association. All rights reserved.

Copyright © 2013-2019, the American Hospital Association, Chicago, Illinois. Reproduced by CMS with permission. No portion of the AHA copyrighted materials contained within this publication may be copied without the express written consent of the AHA. AHA copyrighted materials including the UB-04 codes and descriptions may not be removed, copied, or utilized within any software, product, service, solution or derivative work without the written consent of the AHA. If an entity wishes to utilize any AHA materials, please contact the AHA at 312-893-6816. Making copies or utilizing the content of the UB-04 Manual, including the codes and/or descriptions, for internal purposes, resale and/or to be used in any product or publication; creating any modified or derivative work of the UB-04 Manual and/or codes and descriptions; and/or making any commercial use of UB-04 Manual or any portion thereof, including the codes and/or descriptions, is only authorized with an express license from the American Hospital Association. To license the electronic data file of UB-04 Data Specifications, contact Tim Carlson at (312) 893-6816. You may also contact us at ub04@healthforum.com

The American Hospital Association (the "AHA") has not reviewed, and is not responsible for, the completeness or accuracy of any information contained in this material, nor was the AHA or any of its affiliates, involved in the preparation of this material, or the analysis of information provided in the material. The views and/or positions presented in the material do not necessarily represent the views of the AHA. CMS and its products and services are not endorsed by the AHA or any of its affiliates.