



COVID-19 Update: CMS allows hospitals to provide swing bed services

May 12, 2020

On May 8, 2020, the Centers for Medicare & Medicaid Services (CMS) issued [new blanket waivers](#) providing flexibilities to care for patients during the COVID-19 public health emergency. Included in this round of blanket waivers is a waiver expanding the ability of hospitals to offer long-term care services to patients who do not require acute care but meet the skilled nursing facility (SNF) level of care criteria set for in 42 CFR 409.31. CMS is waiving the eligibility requirements for hospital providers of long-term care services (swing beds) at 42 CFR 482.58(a)(1)-(4) to allow hospitals to establish SNF swing beds payable under the SNF prospective payment system (PPS). This waiver provides additional options for hospitals with patients who no longer require acute care but are unable to find placement in a SNF.

Normally, regulations permit only certain small, rural hospitals to enter into a swing-bed agreement, under which the hospital may use its beds, as needed, to provide either acute or SNF care. However, under this waiver, the following eligibility requirements for the use of swing beds are being waived:

1. The facility has fewer than 100 hospital beds, excluding beds for newborns and beds in intensive care-type inpatient units.
2. The hospital is located in a rural area. This includes all areas not delineated as “urbanized” areas by the Census Bureau, based on the most recent census.
3. The hospital does not have in effect a 24-hour nursing waiver granted under 42 CFR 488.54(c).
4. The hospital has not had a swing-bed approval terminated within the two years previous to application.

In order to qualify for this waiver, a hospital must:

- Not use SNF swing beds for acute level care.
- Comply with all other hospital conditions of participation and those SNF provisions set out at 42 CFR 482.58(b) to the extent not waived.
- Be consistent with the state's emergency preparedness or pandemic plan.

To add swing bed services, a hospital will be required to attest to CMS that:

- The hospital has made a good faith effort to exhaust all other options for placement of patients needing SNF services;
- There are no skilled nursing facilities within the hospital's catchment area that under normal circumstances would have accepted SNF transfers but are currently not willing to accept or able to take patients because of the COVID-19 pandemic;
- The hospital meets all waiver eligibility requirements; and
- The hospital has a plan to discharge patients as soon as practicable, when a SNF bed becomes available or when the public health emergency ends, whichever is earliest.

This waiver applies to all Medicare-enrolled hospitals, except psychiatric and long-term care hospitals. The hospital cannot bill for SNF PPS payment using swing beds when patients require acute level care or continued acute care at any time while this waiver is in effect. State law requirements may also need to be addressed and hospitals should be certain to check these prior to adding swing bed services.

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