



# CMS Section 1135 Waiver Components and Benefit Period Extensions

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## Today's Presenters



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## Learning Objectives

### Review of COVID-19 Emergency Declaration Blanket Waivers – Impact on Billing

- Three-Day Qualifying Hospital Stay
- Spell of Illness / Benefit Period Extension
- MDS Reporting

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## Learning Objectives (cont.)

### Review of COVID-19 Emergency Declaration Blanket Waivers – Other Changes

- Physician Visits / Telehealth
- PASARR
- Transfer and Discharge
- Resident Groups / Resident Roommates
- Physical Environment
- Training and Certification for Nurse Aides
- Staffing Data Submission

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## Section 1135 – Disaster Relief Waivers

- COVID-19 Emergency Declaration – Blanket Waivers for Health Care Providers
- Retroactive to March 1, 2020 through the end of the emergency declaration
- Medicare waivers do not require a request, application or notification to CMS

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## Three-Day Prior Hospitalization

- CMS is waiving the requirement for a three-day qualifying hospital stay for coverage of a SNF stay for “those people who experience dislocations, or are otherwise affected by COVID-19.”
  - Less potential for exposure to the virus if residents can be “skilled in place” or admitted from the community without a prior hospitalization
  - CMS has not limited the waiver to types of admissions as long as the resident meets skilled criteria
  - Skilled criteria has not changed. Medicare Benefit Policy Manual, Chapter 8 Section 30

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## Skilled Services – BPM Chapter 8, Sec. 30

Care in a SNF is covered if all of the following four factors are met:

- The patient requires skilled nursing services or skilled rehabilitation services—i.e., services that must be performed by or under the supervision of professional or technical personnel (see §§30.2 – 30.4) are ordered by a physician and the services are rendered for a condition that arose while receiving care in a SNF for a condition for which he/she received inpatient hospital services.
- The patient requires these skilled services on a daily basis (see §30.6).

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## Skilled Services – BPM Chapter 8, Sec. 30 (cont.)

- As a practical matter, considering economy and efficiency, the daily skilled services can be provided only on an inpatient basis in a SNF (See §30.7).
- The services delivered are reasonable and necessary for the treatment of a patient's illness or injury—i.e., are consistent with the nature and severity of the individual's illness or injury, the individual's particular medical needs and accepted standards of medical practice. The services must also be reasonable in terms of duration and quantity.

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## Skilled Services – BPM Chapter 8, Sec. 30 (cont.)

- The SNF must obtain and retain the required certification and recertification statements. The A/B MAC (A) may request them to assist in determining medical necessity when necessary. The SNF will determine how to obtain the required certification and recertification statements. There is no requirement for a specific procedure or form as long as the approach adopted by the facility permits verification that the certification and recertification requirement is met. Certification or recertification statements may be entered on or included in forms, notes or other records that would normally be signed in caring for a patient, or on a separate form. Except as otherwise specified, each certification and recertification is to be separately signed.

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## Skilled Services – BPM Chapter 8, Sec. 30 (cont.)

- Certifications must be obtained at the time of admission, or as soon thereafter as is reasonable and practicable. The routine admission order established by a physician is not a certification of the necessity for post-hospital extended care services for purposes of the program. There must be a separate signed statement indicating that the patient will require on a daily basis SNF covered care.

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## Renewed SNF Coverage / Benefit Extension

- In addition to the qualifying hospital stay waiver, for those beneficiaries who have recently exhausted their benefits, CMS is authorizing renewed coverage without first having to start a new benefit period (through a 60-day break in the spell of illness).
- Per CMS, *“This waiver will only apply for those beneficiaries who have been delayed or prevented by the emergency itself from commencing or completing the process of ending their current benefit period and renewing their SNF benefits that would have occurred under normal circumstances.”*

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## Impact on Billing Processes

Communication is **key**

- Per notification of admission under the waiver
- Validate skilled services, physician certification for benefit period extension

Triple Check

- MDS submission delays
- DR condition code MUST be present for three-day stay waiver
- Diagnosis management

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# Reporting MDS



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## Reporting Minimum Data Set

- Waiver of 42 CFR 483.20 to provide relief to SNFs on the time frame requirements for MDS assessments and transmission
  - Assessments must still be completed
  - MDS will be needed to complete billing
- SNF PPS five-day assessment should be used to start a SNF PPS Part A stay when applying a §1135 COVID-19 waiver

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## ICD-10-CM Coding

**For dates 2/20/2020 – 3/31/2020:**

- Pneumonia – confirmed as due to COVID-19 – J12.89 and B97.29
- Acute bronchitis – confirmed as due to COVID-19 – J20.8 and B97.29
- Bronchitis (NOS) – confirmed as due to the COVID-19 – J40 and B97.29
- Lower respiratory infection (NOS) – confirmed as due to the COVID-19 – J22 and B97.29
- Acute respiratory infection (NOS) – confirmed as due to the COVID-19 – J22 and B97.29

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## ICD-10-CM Coding (cont.)

**For dates 2/20/2020 – 3/31/2020:**

- Respiratory infection, NOS – confirmed as due to the COVID-19 – J98.8 and B97.29
- ARDS – due to COVID-19 – J80 and B97.29
- Possible exposure to COVID-19 but this is ruled out after evaluation Z03.818
- Actual exposure to someone who is confirmed to have COVID-19 – Z20.828

*Note: Diagnosis code B34.2, coronavirus infection, unspecified, would in general not be appropriate for COVID-19, because the cases have universally been respiratory in nature, so the site would not be “unspecified.”*

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## ICD-10-CM Coding (cont.)

**For dates 4/1/2020 – 9/30/2020:**

- Confirmed COVID-19 – U07.1
- *Presumptive positive COVID-19 test results should be coded as confirmed. A presumptive positive test result means an individual has tested positive for the virus at a local or state level, but it has not yet been confirmed by the Centers for Disease Control and Prevention (CDC). CDC confirmation of local and state tests for COVID-19 is no longer required.*
- *If the provider documents "suspected," "possible," "probable" or "inconclusive" COVID-19, do not assign code U07.1. Assign a code(s) explaining the reason for encounter (such as fever) or Z20.828, contact with and (suspected) exposure to other viral communicable diseases.*

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## PDPM

- Providers have reported concern that if the primary reason for the SNF stay is due to the COVID-19 virus, the initial ICD-10-CM diagnosis codes identified by the CDC as appropriate to code for COVID-19 are not compatible with the SNF Medicare A payment model.

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## PDPM

PDPM Nursing Component and Number of Sub-Components	Nursing Component Per-Diem Revenue Difference if COVID-19 Isolation Patient Cohorted with a Roommate - Based on FY 2000 PDPM Case-Mix Adjusted Federal Urban Rates
Special Care High (4)	(\$56.14 - \$113.34)
Special Care Low (4)	(\$90.04 - \$158.88)
Clinically Complex (6)	(\$112.28 - \$210.79)
Behavioral Symptoms/Cognitive Performance (2)	(\$200.19 - \$205.49)
Reduced Physical Function (6)	(\$144.06 - \$240.44)

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## Other Changes

## Physician Visits/Telehealth

*“CMS is waiving the requirement in 42 CFR 483.30 for physicians and non-physician practitioners to perform in-person visits for nursing home residents and allow visits to be conducted, as appropriate, via telehealth options.”*

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## Pre-Admission Screening and Resident Review (PASARR)

*“CMS is waiving 42 CFR 483.20(k) allowing states and nursing homes to suspend these assessments for new residents for 30 days. After 30 days, new patients admitted to nursing homes with a mental illness (MI) or intellectual disability (ID) should receive the assessment as soon as resources become available.”*

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## Resident Transfer and Discharge

*“CMS is waiving requirements in 42 CFR 483.10(c)(5); 483.15(c)(3), (c)(4)(ii), (c)(5)(i) and (iv), (c)(9) and (d); and § 483.21(a)(1)(i), (a)(2)(i) and (b) (2)(i) (with some exceptions) to allow a long-term care (LTC) facility to transfer or discharge residents to another LTC facility solely for the following cohorting purposes:*

1. *Transferring residents with symptoms of a respiratory infection or confirmed diagnosis of COVID-19 to another facility that agrees to accept each specific resident, and is dedicated to the care of such residents;*

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## Resident Transfer and Discharge (cont.)

2. *Transferring residents without symptoms of a respiratory infection or confirmed to not have COVID-19 to another facility that agrees to accept each specific resident, and is dedicated to the care of such residents to prevent them from acquiring COVID-19; or*
3. *Transferring residents without symptoms of a respiratory infection to another facility that agrees to accept each specific resident to observe for any signs or symptoms of a respiratory infection over 14 days.”*

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## Resident Groups

*“CMS is waiving the requirements at 42 CFR 483.10(f)(5), which ensure residents can participate in-person in resident groups. This waiver would only permit the facility to restrict in-person meetings during the national emergency given the recommendations of social distancing and limiting gatherings of more than 10 people. Refraining from in-person gatherings will help prevent the spread of COVID-19.”*

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## Resident Roommates

*“CMS is waiving the requirements in 42 CFR 483.10(e) (5), (6) and (7) solely for the purposes of grouping or cohorting residents with respiratory illness symptoms and/or residents with a confirmed diagnosis of COVID-19, and separating them from residents who are asymptomatic or tested negative for COVID-19. This action waives a facility’s requirements, under 42 CFR 483.10, to provide for a resident to share a room with his or her roommate of choice in certain circumstances, to provide notice and rationale for changing a resident’s room, and to provide for a resident’s refusal a transfer to another room in the facility. This aligns with CDC guidance to preferably place residents in locations designed to care for COVID-19 residents, to prevent the transmission of COVID-19 to other residents.”*

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## Physical Environment

*“CMS is waiving requirements related at 42 CFR 483.90, specifically the following:*

- *Provided that the state has approved the location as one that sufficiently addresses safety and comfort for patients and staff, CMS is waiving requirements under § 483.90 to allow for a non-SNF building to be temporarily certified and available for use by a SNF in the event there are needs for isolation processes for COVID-19 positive residents, which may not be feasible in the existing SNF structure to ensure care and services during treatment for COVID-19 are available while protecting other vulnerable adults. CMS believes this will also provide another measure that will free up inpatient care beds at hospitals for the most acute patients while providing beds for those still in need of care. CMS will waive certain conditions of participation and certification requirements for opening a NF if the state determines there is a need to quickly stand up a temporary COVID-19 isolation and treatment location.”*

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## Physical Environment (cont.)

*“CMS is also waiving requirements under 42 CFR 483.90 to temporarily allow for rooms in a long-term care facility not normally used as a resident’s room, to be used to accommodate beds and residents for resident care in emergencies and situations needed to help with surge capacity. Rooms that may be used for this purpose include activity rooms, meeting/conference rooms, dining rooms, or other rooms, as long as residents can be kept safe, comfortable, and other applicable requirements for participation are met. This can be done so long as it is not inconsistent with a state’s emergency preparedness or pandemic plan, or as directed by the local or state health department.”*

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## Training and Certification of Nursing Assistance

*“CMS is waiving the requirements at 42 CFR 483.35(d) (with the exception of 42 CFR 483.35(d)(1)(i)), which require that a SNF and NF may not employ anyone for longer than four months unless they met the training and certification requirements under § 483.35(d). CMS is waiving these requirements to assist in potential staffing shortages seen with the COVID-19 pandemic.”*

Note: They are not waiving § 483.35(c), “...which requires facilities to ensure that nurse aides are able to demonstrate competency in skills and techniques necessary to care for residents’ needs, as identified through resident assessments, and described in the plan of care.”

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## Staffing Data (PBJ)

*“CMS is waiving 42 CFR 483.70(q) to provide relief to long-term care facilities on the requirements for submitting staffing data through the Payroll-Based Journal System.”*

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## Additional Resources

Richter COVID-19 Resource Page:  
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## Questions?



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# Thank You!

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