



Advancing High Performance Health

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# Skilled Nursing Facility 3-Day Rule: Remove Outdated Requirement That Delays Care and Drives Unnecessary Hospitalization

## Overview

Medicare's requirement that beneficiaries complete a three-day inpatient hospital stay before qualifying for skilled nursing facility (SNF) coverage is a statutory policy that no longer reflects modern clinical practice or care delivery. The SNF 3-Day Rule, codified in Section 1861(i) of the Social Security Act, was established in 1965 to limit extended care benefits and reduce prolonged hospitalizations. Today, however, it operates as an arbitrary time-based threshold that delays appropriate post-acute care, increases costs, and exposes patients to avoidable hospital-related risks.

The Centers for Medicare & Medicaid Services (CMS) has repeatedly demonstrated—through the Medicare Shared Savings Program (MSSP), Center for Medicare and Medicaid Innovation (CMMI) models, and broad waivers during the COVID-19 Public Health Emergency (PHE)—that care quality and program integrity can be maintained without the three-day requirement. While permanent elimination requires Congressional action, the existing evidence supports statutory reform to align Medicare policy with high-value, patient-centered care.

## AMGA's Policy Recommendations

AMGA urges Congress to amend Section 1861(i) of the Social Security Act to eliminate the three-day inpatient hospital stay requirement for SNF coverage. Specifically, Congress should:

1. Remove the statutory inpatient stay requirement to allow SNF coverage decisions to be based on clinical appropriateness rather than an arbitrary length-of-stay threshold.
2. Codify nationwide flexibility, already proven successful under MSSP, CMMI models, and PHE waivers, for all Medicare beneficiaries.
3. Preserve existing quality and medical necessity safeguards, including SNF admission criteria and coverage standards at 42 CFR § 409.30.

This approach would modernize Medicare coverage while maintaining program integrity and beneficiary protections.

## Background

The 3-Day Rule is established in Section 1861(i) of the Social Security Act, which defines “post-hospital extended care services” and requires a Medicare beneficiary to be an inpatient of a hospital for not less than three consecutive days before SNF coverage is available. This statutory standard is implemented through 42 CFR § 409.30, which requires both a medically necessary inpatient hospital stay of at least three consecutive calendar days (§ 409.30(a)(1)) and a need for SNF-level care related to the hospital stay or a condition arising during the SNF stay (§ 409.30(a)(2)).

Because the requirement is set in statute, CMS lacks authority to permanently eliminate it through rulemaking. CMS may, however, waive the requirement under limited circumstances, including pursuant to its CMMI authority under Section 1115A of the Social Security Act, under Section 1135 waiver authority during declared PHEs, and through program-specific waivers enacted by Congress.

### CMS Experience with 3-Day Rule Waivers

CMS has repeatedly waived the 3-Day Rule across multiple programs, providing real-world evidence of feasibility and safety:

- **Medicare Shared Savings Program:** Under 42 CFR § 425.612, certain MSSP ACOs participating in advanced tracks are permitted to admit beneficiaries directly to SNFs without a prior hospital stay when clinically appropriate.
- **Center for Medicare and Medicaid Innovation Models:** CMMI has waived the requirement in multiple alternative payment models, including Next Generation ACO and other advanced value-based arrangements.
- **COVID-19 Public Health Emergency:** Pursuant to Section 1812(f) and Section 1135, CMS broadly waived the three-day requirement nationwide, demonstrating that beneficiary safety and quality can be maintained without the rule.

In all these contexts, participating organizations have reported improved care transitions, reduced costs, and improved (or maintained) quality outcomes.

### Supporting Rationale

Eliminating the 3-Day Rule is consistent with CMS policy direction, empirical evidence from existing waivers, and contemporary care delivery models:

- **Clinical appropriateness:** Length of hospital stay is no longer a reliable proxy for post-acute care need. Many beneficiaries appropriate for SNF-level care are delayed or hospitalized longer solely to satisfy the statutory requirement.
- **Cost efficiency:** Acute hospital care is significantly more expensive than SNF care. Requiring unnecessary hospital days increases Medicare spending without improving outcomes.
- **Value-based alignment:** The rule conflicts with accountable care, discharge planning, and care coordination strategies designed to deliver care in the most appropriate setting.

- **Patient safety:** Extended hospital stays increase exposure to hospital-acquired infections and other preventable complications.
- **Consistency:** Current waivers create a two-tiered system, in which beneficiaries' access to timely SNF care depends on their provider's participation in specific CMS programs rather than clinical need.

## Conclusion

The Medicare SNF 3-Day Rule is a relic of fee-for-service medicine that no longer aligns with contemporary clinical practice or CMS' high-value care objectives. Extensive CMS waiver experience demonstrates that eliminating the requirement improves efficiency and patient-centered care without compromising quality or program integrity.

AMGA respectfully urges Congress to modernize Medicare by amending Section 1861(i) of the Social Security Act, allowing SNF coverage decisions to be driven by clinical need rather than outdated statutory thresholds. This targeted reform would advance timely access to care, reduce unnecessary hospitalizations, and better align Medicare policy with the realities of modern care delivery.

In the interim, AMGA urges the Department of Health and Human Services (HHS) to exercise its existing administrative authority to waive the three-day prior hospitalization requirement to the fullest extent permissible under current law. HHS has demonstrated the viability of such waivers, and the evidence consistently shows that patient outcomes are not compromised when SNF placement is based on clinical criteria alone. Administrative action in this space would provide immediate relief to patients and providers while Congress considers the longer-term statutory reforms needed to permanently resolve this barrier to appropriate, timely care.