



Policy Title: 3-Day SNF Rule Waiver Benefit Enhancement			
Department Responsible: Compliance and Integrity	Policy Number: 1.95	THN’s Effective Date: April 10, 2017	Next Review/Revision Date: April 2018
Title of Person Responsible: Compliance Officer	THN Approval Council: Compliance and Integrity Committee	Date Approved: April 10, 2017	Date Approved by THN Board of Managers August 22, 2017

PURPOSE:

The purpose of this policy is to provide guidance on the 3-Day Skilled Nursing Facility (SNF) Waiver and to outline the requirements for THN, Next Generation Participants and Preferred Providers to follow in order to comply.

DEFINITIONS:

Term	Definition
Benefit Enhancements	Additional benefits the ACO chooses to make available to Next Generation Beneficiaries through Next Generation Participants and Preferred Providers in order to support high-value services and allow the ACO to more effectively manage the care of Next Generation Beneficiaries: (1) 3-Day SNF Rule Waiver (as described in the NGACO Participation Agreement, Section XI.B and Appendix I); (2) Telehealth Expansion (as described in Section XI.C and Appendix J); and (3) Post-Discharge Home Visits (as described in the NGACO Participation Agreement, Section XI.D and Appendix K).
Eligible SNFs	Is a skilled nursing facility (“SNF”) or a hospital or critical access hospital (“CAH”) that has swing-bed approval for SNF services (“swing-bed hospital”) that is a Next Generation Participant or Preferred Provider that has: <ol style="list-style-type: none"> 1. Entered into a written agreement with the ACO to provide SNF Services in accordance with the SNF 3-Day Rule Waiver; 2. Identified by the ACO as having agreed to participate in the 3-Day SNF Rule Waiver Benefit Enhancement in accordance with Section I.B of this Appendix; and 3. Approved by CMS to participate under the 3-Day SNF Rule Waiver following a review of the qualifications of the SNF to accept admissions without a prior inpatient hospital stay (“Direct SNF Admissions”) or admissions after an inpatient stay of fewer than three days.
Next Generation Participant	An individual or entity that: <ol style="list-style-type: none"> A. Is a Medicare-enrolled provider (as defined at 42 CFR § 400.202) or supplier (as defined at 42 CFR § 400.202); B. Is identified on the Participant List in accordance with Section IV; C. Bills for items and services it furnishes to Beneficiaries under a Medicare billing number assigned to a TIN in accordance with applicable Medicare regulations; D. Is not a Preferred Provider; E. Is not a Prohibited Participant; and



	F. Pursuant to a written agreement with the ACO, has agreed to participate in the Model, to report quality data through the ACO, and to comply with care improvement objectives and Model quality performance standards.
Preferred Provider	<p>An individual or entity that:</p> <ul style="list-style-type: none"> A. Is a Medicare-enrolled provider (as defined at 42 CFR § 400.202) or supplier (as defined at 42 CFR § 400.202); B. Is identified on the Preferred Provider List in accordance with Section IV; C. Bills for items and services it furnishes to Beneficiaries under a Medicare billing number assigned to a TIN in accordance with applicable Medicare regulations; D. Is not a Next Generation Participant; E. Is not a Prohibited Participant; and F. Has agreed to participate in the Model pursuant to a written agreement with the ACO.

POLICY:

CMS waives the requirement in section 1861(i) of the Social Security Act for a three-day inpatient hospital stay prior to the provision of otherwise covered Medicare post-hospital extended care services (“**SNF Services**”) furnished under the terms and conditions set forth in this policy.

PROCEDURE:

I. Eligible 3-Day SNF Providers

The ACO shall require that, in order to be eligible to submit claims for services furnished to Next Generation Beneficiaries pursuant to the 3-Day SNF Rule Waiver Benefit Enhancement, an entity must be:

- A. A Next Generation Participant or Preferred Provider; and
- B. A skilled-nursing facility (“**SNF**”) or a hospital or critical access hospital that has swing-bed approval for SNF services (“**Swing-Bed Hospital**”); and
- C. Designated on the Participant List or Preferred Provider List as participating in the 3-Day SNF Rule Waiver Benefit Enhancement; and
- D. Approved by CMS according to the criteria described in the Next Generation Participation Agreement, Appendix I.

II. Eligible SNFs

- A. SNF Services under the terms of the 3-Day SNF Rule Waiver. Additionally, at the time of CMS review and approval of the SNF to participate under the 3-Day SNF Rule Waiver, the SNF must have an overall rating of three or more stars under the CMS 5-Star Quality Rating System, as reported on the Nursing Home Compare website.
- B. Eligibility of SNFs and swing bed hospitals to provide services under this 3-Day SNF Rule Waiver will be reassessed annually, prior to the start of each Performance Year.
- C. The ACO shall maintain and provide to its Next Generation Participants and Preferred Providers an accurate and complete list of Eligible SNFs and shall furnish updated lists as necessary to reflect any changes in SNF eligibility. The ACO shall also furnish these lists to a Next Generation Beneficiary, upon request.



- D. The ACO must provide written notification to CMS within 10 days of any changes its list of Eligible SNFs. Within 10 days following the removal of any Eligible SNF from the list of Eligible SNFs, the ACO must also provide written notification to the SNF or swing-bed hospital that it has been removed from the list and that it no longer qualifies to use this 3-Day SNF Rule Waiver.
- E. The ACO shall provide a copy of this 3-Day SNF Rule Waiver to each Eligible SNF to which Next Generation Beneficiaries are referred.

III. **Beneficiary Eligibility Requirements**

- A. The referring Participant is responsible to determine whether the Beneficiary is eligible under the terms of the 3-Day SNF Rule Waiver, which states the Beneficiary must be:
 - 1. A Next Generation Beneficiary at the time of SNF admission under this waiver or within the grace period under Section VI of this Appendix; and
 - a. Participants may access the patient's Electronic Health Record to determine if they are currently aligned to the ACO as a NGACO Beneficiary.
 - 2. Not residing in a SNF or long-term care facility at the time of SNF admission under this waiver. For purposes of this waiver, independent living facilities and assisted living facilities shall not be deemed long-term care facilities.
- B. The SNF receiving a referred NGACO Beneficiary is responsible to make the Eligibility Determinations for reimbursement through the use of the **3-Day SNF Rule Waiver Eligibility Form**
 - 1. A Direct SNF Admission will be covered under the terms of the 3-Day SNF Rule only if, through use of the 3-Day SNF Rule Waiver Form, it is determined at the time of the referral or admission, the Eligible Next Generation Beneficiary:
 - i. Is medically stable;
 - ii. Has confirmed diagnoses;
 - iii. Has been evaluated by a physician or other practitioner licensed to perform the evaluation within three days prior to SNF admission;
 - iv. Does not require inpatient hospital evaluation or treatment; and
 - v. Has a skilled nursing or rehabilitation need that is identified by the evaluating physician and cannot be provided as an outpatient.
 - 2. A SNF admission will be covered for a Beneficiary who is discharged to an Eligible SNF after fewer than three days of inpatient hospitalization only if at the time of the referral or admission the Beneficiary:
 - i. Is medically stable;
 - ii. Has confirmed diagnoses;
 - iii. Does not require further inpatient hospital evaluation or treatment; and
 - iv. Has a skilled nursing or rehabilitation need that has been identified by a physician during the inpatient hospitalization and that cannot be provided on an outpatient basis.
 - 3. Upon completion of the Beneficiary's stay under this Waiver, the SNF shall complete the 3-Day Rule Waiver Discharge Form and submit it to Triad HealthCare Network within 48 hours.

IV. **Grace Period for Excluded Beneficiaries**



A. In the case of a former Next Generation Beneficiary, that is, a Beneficiary who was aligned to the ACO at the start of the applicable Performance Year but who is later excluded from alignment to the ACO, CMS shall make payment for SNF Services furnished to such a Beneficiary without a prior 3 day inpatient hospitalization by an Eligible SNF under the terms of the 3-Day SNF Rule Waiver under the terms of the waiver in Section II of this Appendix as if the Beneficiary were still aligned to the ACO when the admission to the Eligible SNF occurs within 90 days following the date of the alignment exclusion and all requirements under Section IV of this Appendix are met.

V. SNF Services Provided to Non-Eligible Next Generation Beneficiaries:

- A. If an Eligible SNF provides SNF Services under this 3-Day SNF Rule Waiver to a Next Generation Beneficiary who does not meet the Beneficiary Eligibility Requirements in Section IV of this Appendix, the following rules shall apply:
1. CMS shall make no payment to the Eligible SNF for such services;
 2. The ACO shall ensure that the Eligible SNF that provided the SNF Services does not charge the Next Generation Beneficiary for the expenses incurred for such services;
 3. The ACO shall ensure that the Eligible SNF that provided the SNF Services returns to the Next Generation Beneficiary any monies collected from the Next Generation Beneficiary.
 4. The Eligible SNF shall provide copies of all 3-Day SNF Rule Waiver Admission Forms for referred NGACO Beneficiaries. The Admission Form documents the Beneficiary's eligibility and clearly states the SNF's obligations under this policy.

VI. Responsibility for Denied Claims

- A. If a claim for any SNF Services furnished to a Beneficiary by an Eligible SNF is denied as a result of a CMS error and the Eligible SNF did not know, and could not reasonably have been expected to know, as determined by CMS, that the claim would be denied, payment shall, notwithstanding such denial, be made by CMS for such SNF Services under the terms of the waiver in Section II of this Appendix as though the coverage denial had not occurred.
- B. If a claim for any SNF Services furnished to a Beneficiary by an Eligible SNF is denied for any reason other than a CMS error and CMS determines that that the Eligible SNF did not know, and could not reasonably have been expected to know, that payment would not be made for such items or services under Part A or Part B of Title XVIII:
1. CMS shall, notwithstanding such determination, pay for such SNF Services under the terms of the waiver in Section II of this Appendix as though the coverage denial had not occurred, but CMS will recoup these payments from the ACO. The ACO shall owe CMS the amount of any such payments, payable as Other Monies Owed for that Performance Year;
 2. The ACO shall ensure that the Eligible SNF that provided the SNF Services does not charge the Beneficiary for the expenses incurred by such services; and
 3. The ACO shall ensure that the Eligible SNF that provided the SNF Services returns to the Beneficiary any monies collected from the Beneficiary.
- C. If a claim for any SNF Services furnished to a Beneficiary by an Eligible SNF is denied and the Eligible SNF knew, or reasonably could be expected to have known, as determined by CMS, that payment would not be made for such items or services under Part A or Part B of Title XVIII:
1. CMS shall not make payment to the Eligible SNF for such services;
 2. The ACO shall ensure that the Eligible SNF that provided the SNF Services does not charge the Beneficiary for the expenses incurred by such services; and



3. The ACO shall ensure that the Eligible SNF that provided the SNF Services returns to the Beneficiary any monies collected from the Beneficiary.
- D. If a Next Generation Participant or Preferred Provider that is not an Eligible SNF submits a claim for SNF Services under this 3-Day SNF Rule Waiver, furnishes services to a Beneficiary for which CMS only would have made payment if the Next Generation Participant or Preferred Provider was an Eligible SNF participating in the 3-Day SNF Rule Waiver in Section II of this Appendix at the time of service:
 1. CMS shall not make payment to the Next Generation Participant or Preferred Provider for such services;
 2. The ACO shall ensure that the Next Generation Participant or Preferred Provider that provided the SNF Services does not charge the Beneficiary for the expenses incurred by such services; and
 3. The ACO shall ensure that the Next Generation Participant or Preferred Provider that provided the SNF Services returns to the Beneficiary any monies collected from the Beneficiary.

VII. Compliance and Enforcement

- A. CMS may revoke its approval of a Next Generation Participant or Preferred Provider to participate as an Eligible SNF under the 3-Day SNF Rule Waiver Benefit Enhancement at any time if the Next Generation Participant or Preferred Provider’s continued participation in this 3-Day SNF Rule Waiver Benefit Enhancement might compromise the integrity of the Model.
- B. The ACO must have appropriate procedures in place to ensure that Next Generation Participants and Preferred Providers have access to the most up-to-date information regarding Next Generation Beneficiary alignment to the ACO.
- C. The ACO shall submit quarterly reports to CMS, in a manner to be determined by CMS, regarding its use of the 3-Day SNF Rule Waiver under Section II of this Appendix. The ACO shall provide CMS with supplemental information upon request regarding its use of the 3-Day SNF Rule Waiver.

REFERENCE DOCUMENTS/LINKS:

1. Next Generation ACO Model Participation Agreement 2017 (First Amended and Restated Participation Agreement for 2016 Starters), Section XI Benefits Enhancements, subsection B1-3, page 37. **Appendix I.**
2. SEC. 1861 [42 U.S.C. 1395m] (i) Post-Hospital Extended Care Services
3. Addendum A: 3-Day SNF Waiver Eligibility Determination Workflow
4. Addendum B: 3-Day SNF Waiver Eligibility Form
5. Addendum C: 3-Day SNF Waiver Discharge Form

PREVIOUS REVISION/REVIEW DATES:

Date	Reviewed	Revised	Notes
May 23, 2017	N/A	N/A	New Policy
July 24, 2017	Yes	Yes	Includes new procedures