



OIG Recommends Further Analysis of Counting Hospital Outpatient Time Toward Three-Night Requirement for SNF Medicare Coverage

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In July, the Department of Health and Human Services (HHS), Office of Inspector General (OIG) released its annual publication, *Solutions to Reduce Fraud, Waste, and Abuse in HHS Programs: OIG's Top Recommendations*. The OIG's 2019 report focused on the top 25 unimplemented recommendations that, in OIG's view, would most positively affect HHS programs in terms of cost savings, program effectiveness and efficiency, and public health and safety if implemented.

One area of particular focus was the Skilled Nursing Facility (SNF) 3-night requirement.¹ The OIG's number one top unimplemented recommendation is for the Centers for Medicare and Medicaid Services (CMS) to analyze the potential impact of counting outpatient time toward the 3-night requirements for SNF services so that beneficiaries receiving similar hospital care can have similar access to these services. The OIG expressed concern that as a result of the 3-night rule, beneficiaries with similar post-hospital care needs have different access to and cost sharing for SNF services depending on whether they were hospital inpatients or outpatients. In addition, the OIG noted that its review of sample SNF claims found that many SNFs incorrectly used a combination of inpatient and non-inpatient hospital days to meet the 3-night requirement.²

In 2014, CMS's Office of the Actuary analyzed the impact of counting time spent as an outpatient toward the 3-night inpatient hospital stay requirement. From these findings, CMS estimated that this change could have potential impacts of a 20% uptake in SNF admissions and an increase in Medicare SNF expenditures of \$56 billion from 2014 to 2023. The OIG acknowledged that to properly analyze the potential impact of counting time spent as an outpatient toward the 3-night requirements, CMS still needs to conduct updated research on whether, and to what extent, beneficiaries continue to fail to qualify for Medicare SNF coverage due to time spent in the hospital as an outpatient. Accordingly, the OIG has recommended reanalyzing the potential impacts of counting time spent as an outpatient toward the 3-night requirement for SNF Medicare coverage. For more information, please click [here](#).³

¹ Generally, Medicare only covers SNF stays if a beneficiary has a prior inpatient hospital stay of 3 consecutive days within 30 days of the beneficiary's admission to the SNF. See CMS, *What is the Three-Day Skilled Nursing Facility Waiver?* (Jan. 7, 2019), <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/sharesavingsprogram/Downloads/SNF-Waiver-Guidance.pdf>.

² See, OIG, *CMS Improperly Paid Millions of Dollars for Skilled Nursing Facility Services When the Medicare 3-Day Inpatient Hospital Stay Requirement was Not Met* (Feb. 2019), <https://oig.hhs.gov/oas/reports/region5/51600043.pdf>.

³ Link: <https://oig.hhs.gov/reports-and-publications/compendium/files/compendium2019.pdf>

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