CMS Manual System	**Department of Health & Human Services (DHHS)**
Pub 100-20 One-Time Notification	**Centers for Medicare & Medicaid Services (CMS)**
Transmittal 10083	**Date: May 1, 2020**
	Change Request 11714

SUBJECT: Update to Medicare Shared Savings Program (SSP) Skilled Nursing Facility (SNF) Affiliates' Requirement to Include Demonstration Code 77 on SNF Waiver Claims

I. SUMMARY OF CHANGES: With the implementation of Change request (CR) 11290 on January 6, 2020, it has come to CMS' attention that SNF claims for beneficiaries eligible for the SNF 3-day rule waiver with a 3-day qualifying hospital stay are being Returned to Provider (RTP) with the reason code 32490 – requiring the demonstration code 77 to be reported in the treatment authorization field in order to bypass the 3-day qualifying hospital stay. The intent of this CR is to correct that error.

EFFECTIVE DATE: October 1, 2020
**Unless otherwise specified, the effective date is the date of service.*
IMPLEMENTATION DATE: October 5, 2020

Disclaimer for manual changes only: The revision date and transmittal number apply only to red italicized material. Any other material was previously published and remains unchanged. However, if this revision contains a table of contents, you will receive the new/revised information only, and not the entire table of contents.

II. CHANGES IN MANUAL INSTRUCTIONS: (N/A if manual is not updated)
R=REVISED, N=NEW, D=DELETED-*Only One Per Row.*

R/N/D	CHAPTER / SECTION / SUBSECTION / TITLE
N/A	N/A

III. FUNDING:
For Medicare Administrative Contractors (MACs):
The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

IV. ATTACHMENTS:

One Time Notification

Attachment - One-Time Notification

Pub. 100-20	Transmittal: 10083	Date: May 1, 2020	Change Request: 11714

SUBJECT: Update to Medicare Shared Savings Program (SSP) Skilled Nursing Facility (SNF) Affiliates' Requirement to Include Demonstration Code 77 on SNF Waiver Claims

EFFECTIVE DATE: October 1, 2020
**Unless otherwise specified, the effective date is the date of service.*
IMPLEMENTATION DATE: October 5, 2020

I. GENERAL INFORMATION

A. Background: The SNF benefit is for beneficiaries who require a short-term intensive stay in a SNF, requiring skilled nursing and/or rehabilitation care. Pursuant to section 1861(i) of the Social Security Act, beneficiaries must have a prior inpatient hospital stay of no fewer than three consecutive days in order to be eligible for Medicare coverage of inpatient SNF care. This has become known as the SNF 3-day rule.

CMS understands that, in certain circumstances, it could be medically appropriate for some patients to receive skilled nursing care and/or rehabilitation services provided at SNFs without prior hospitalization or with an inpatient hospital length of stay of less than 3 days. Currently, in the context of the Medicare Advantage program, a Medicare Advantage (MA) organization can elect to cover a SNF stay without requiring a 3-day prior hospitalization – and nearly all do.

Section 3022 of the Affordable Care Act amended Title XVIII of the Social Security Act (the Act) by adding new section 1899 to establish the Medicare Shared Savings Program. Under section 1899(f), the Secretary is permitted to waive "such requirements of…. title XVIII of this Act as may be necessary to carry out the provisions of this section." Within this statutory context, CMS proposed and finalized through rulemaking (80 Final Rule (FR) 32692) a waiver of the prior 3-day inpatient hospitalization requirement in order to provide Medicare SNF coverage when certain beneficiaries, assigned to SSP Accountable Care Organizations (ACOs) that participate in two-sided risk tracks, are admitted to designated SNF affiliates either directly or after fewer than 3 inpatient hospital days. The waiver is available for SSP ACOs in tracks that demonstrate the capacity and infrastructure to identify and manage patients who would be either directly admitted to a SNF or admitted to a SNF after an inpatient hospital stay of fewer than three days, for services otherwise covered under the Medicare SNF benefit. Beneficiaries with certain characteristics who are assigned to a SSP ACO may be admitted to qualifying SNF affiliates, based upon the referral of a treating physician who is an ACO Provider/Supplier. All other requirements for the Medicare SNF benefit remain unchanged.

B. Policy: Under section 1899(f) of the Act, CMS is authorized to waive the SNF 3-day inpatient hospitalization requirement to the extent necessary to carry out the provisions of section 1899 of the Act. CMS has determined that flexibility afforded by the SNF 3-Day Rule Waiver is necessary in order to encourage ACO participation in performance-based risk arrangements. The waiver is only available to eligible ACOs participating in the SSP under a two-sided model (in which they may share in savings and are also accountable for repaying any shared losses). Beneficiaries, SNFs, and ACOs must meet the eligibility requirements specified in §425.612 in order for Medicare to provide payment for SNF services provided pursuant to a SNF 3- Day Rule Waiver.

CMS requires SNF affiliates (including hospitals and Critical Access Hospitals (CAHs) operating under swing bed agreements and partnering with ACOs as SNF affiliates) to include demonstration code 77 in the treatment authorization code field on claims when the SNF affiliate intends for CMS to waive the 3-day qualifying stay requirement. Including demonstration code 77 in the treatment authorization code field provides an attestation on behalf of the SNF affiliate that the eligibility requirements specified in §425.612 have been met and ensure payment only when those requirements are met. Such eligibility requirements

include, but are not limited to, the beneficiary having been evaluated and approved for admission to the SNF within 3 days prior to the SNF admission by an ACO provider/supplier that is a physician, consistent with the ACO's beneficiary evaluation and admission plan. Further information regarding the eligibility requirements can be found in the "SNF Nursing Facility 3-Day Rule Waiver" guidance document available under the "Program Guidance & Specifications" section of the Medicare SSP webpage at https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/sharedsavingsprogram/index.html.

For admissions on or after January 1, 2020, SNF affiliates shall submit demo code 77 on claims in the treatment authorization field. Submitting demo code 77 in the treatment authorization field will be considered as the SNF affiliate's attestation that the eligibility requirements for using a SNF 3-Day Rule Waiver have been met.

II. BUSINESS REQUIREMENTS TABLE

"Shall" denotes a mandatory requirement, and "should" denotes an optional requirement.

Number	Requirement	Responsibility								
		A/B MAC			DME MAC	Shared-System Maintainers				Other
		A	B	HHH		FISS	MCS	VMS	CWF	
11714.1	Contractors shall not apply SSP demonstration 77editing to claims containing Occurrence Span Code (OSC) 70 equaling 3 days or more.	X				X				
11714.1.1	Contractors shall make the SSP demonstration code 77 edit overrideable.					X				

III. PROVIDER EDUCATION TABLE

Number	Requirement	Responsibility				
		A/B MAC			DME MAC	CEDI
		A	B	HHH		
	None					

IV. SUPPORTING INFORMATION

Section A: Recommendations and supporting information associated with listed requirements:
"Should" denotes a recommendation.

X-Ref Requirement Number	Recommendations or other supporting information:
11714.1	The reason code is 32490
11714.1.1	The reason code is 32490

Section B: All other recommendations and supporting information: N/A

V. CONTACTS

Pre-Implementation Contact(s): Valeri Ritter, 410-786-8652 or Valeri.Ritter@cms.hhs.gov, Rhonda Sheppard, 404-562-7210 or Rhonda.Sheppard@cms.hhs.gov, Whitney Korangkool, 410-786-0551 or whitney.korangkool@cms.hhs.gov.

Post-Implementation Contact(s): Contact your Contracting Officer's Representative (COR).

VI. FUNDING

Section A: For Medicare Administrative Contractors (MACs):
The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

ATTACHMENTS: 0