**Skilled Nursing Facilities and the Three Day Rule- Frequently Asked Questions**

**Who qualifies for Part A skilled nursing facility (SNF) Care?**

Part A SNF care is health care given when the patient needs skilled nursing or therapy staff to manage, observe, and evaluate their care. Examples of skilled care include intravenous injections and physical therapy. Medicare certifies these facilities if they have the staff and equipment to give skilled nursing care, therapy services, and/or other related health services.

Medicare doesn’t cover custodial care if it’s the only kind of care the patient needs. Custodial care is care that helps the patient with usual daily activities like getting in and out of bed, eating, bathing, dressing, and using the bathroom. It may also include care that most people do themselves, like using eye drops, oxygen, and taking care of colostomy or bladder catheters. Custodial care is often given in a nursing or long term care facility.

The patient must get the required skilled care on a daily basis and the services must be ones that can only be provided in a SNF on an inpatient basis. Medicare covers up to 100 days for part A SNF care, but coverage may end prior to that point if the need for skilled services ends.

There must be a preceding inpatient admission of 3 or more days. That admission must have been medically necessary, meaning that inpatient admission was required to receive services or reduce risk and that care could not have been safely provided at any other level of care.

**What do we do when families want their loved one admitted to qualify for transfer to a SNF?**

If the patient has a condition that warrants hospital care that is expected to require two or more midnights, the patient should be admitted as inpatient. If that stay lasts over 3 days, the patient can be evaluated for transfer to a SNF under Part A.

If the patient does not require hospital care, the patient should not be admitted to the hospital as an inpatient solely to accumulate the three needed inpatient days. First, the patient is unlikely to have a condition that requires skilled care on a daily basis as outlined above. It is more likely that they require custodial care that the family is no longer able to provide and custodial care is not a covered Medicare benefit.

When a patient or family insists on inpatient admission, the physician has to option of admitting the patient and then notifying the care management staff who will issue a Pre-Admission Hospital-Issued Notice of Non-Coverage. That will notify the patient and family that the hospital feels the admission is for non-medical reasons (a social admission) and will be billing the patient for the hospital stay. Furthermore, an admission accompanied by a Pre-Admission HINN will not be considered a qualifying stay for SNF coverage.

The family will have the option of taking the patient home, agreeing to transfer to a long term care facility and pay out of pocket, or allowing them to be admitted and accepting financial responsibility (without accruing the needed days for SNF qualification.) The hospital will assist the family in arranging transfer to a long term care facility for the needed custodial care or arranging needed home assistance.

**What if I diagnose the patient with failure to thrive?**

Failure to thrive is not a diagnosis that requires acute hospital care. Patients with failure to thrive need assistance with eating, bathing and using the bathroom; those are not skilled services.

**We used to always admit these patients and send to SNF; why is this happening now?**

As the Medicare Trust Fund drops, Medicare has started looking more closely for areas where they have been paying for services that were not a Medicare benefit. This is one area where billions have been paid improperly to SNFs for patients who did not require skilled care and they are now targeting this area for strict compliance with the rules.

**Why three days?**

The three day requirement dates back to 1967 and is obsolete today, but despite lobbying by many organizations, it remains in place. This does harm beneficiaries who would benefit from SNF skilled care after an acute illness or injury, such as a pelvic fracture with difficulty ambulating and need for therapy, but until the rule is changed, we must work with it as is. Medicare has allowed some accountable care organizations (ACOs) to waive the three day requirement for cases such as this, but those ACOs are financially accountable for the SNF costs so they use it wisely. It is hoped that Medicare will adopt some form of this waiver for all hospitals soon.

**Where can I read more?**

Medicare publishes a guide called “Medicare Coverage of Skilled Nursing Facility Care.” You can search for it with any internet search engine.

**Where can my patients complain?**

The three day rule comes from Congress; they should talk to their Congressional representative about the effect on them. Personal stories from constituents go a long way to getting changes in regulations.