

January 14, 2026

Michael E. Chernew, PhD
Chair
Medicare Payment Advisory Commission
425 I Street, NW, Suite 701
Washington, DC 20001

Re: Society of Hospital Medicine Comments on December 2025 Meeting

Dear Dr. Chernew:

On behalf of the Society of Hospital Medicine (SHM), representing the nation's more than 50,000 hospitalists, we appreciate the Medicare Payment Advisory Commission (MedPAC) devoting time at its December meeting to trends and key issues in post-acute care. We were especially excited about Commissioners' renewed interest in the necessity of the three-inpatient-day stay rule for admission to a skilled nursing facility (SNF). SHM and its members ask that MedPAC build on these conversations by recommending that **Congress repeal the SNF three-inpatient-day stay rule (three-day stay rule)**. If the Commission cannot agree on a complete repeal of the three-day stay rule, we ask that the Commission recommend to Congress that the rule be revised to allow time spent in observation status to count toward the requirement.

The outdated three-inpatient day requirement has led to fewer Medicare beneficiaries being able to access their SNF benefits since the rule was enacted in the 1960s. Since that time, the average time spent under inpatient status has decreased from 13 days to just 5.2 days today. Additionally, hospital observation stay billing practices, inpatient bed shortages, and hospital readmission measure incentives, have contributed to increased numbers of patients classified as outpatient observation, and arbitrarily shorter reported inpatient stays when preceded by observation stay days. The result of the continued rule, in spite of these changes, has led to beneficiaries needing to either pay out of pocket for a SNF stay or forego the care they need. MedPAC acknowledged the limitations of the current three-inpatient-day requirement in June 2015, recommending that up to two outpatient observation days be counted toward the requirement. Recent data shows this change could be adopted, without dramatically increasing Medicare spending or utilization.

For example, during the COVID-19 Public Health Emergency, the three-inpatient-day requirement was waived for Medicare beneficiaries. The waiver was in effect from March 1, 2020, through May 11, 2023. During this time, CMS recorded 5.9 million SNF stays for traditional Medicare beneficiaries. Only 1.5 million, or about 25%, of beneficiaries did not have the previously required three inpatient days, with 1.3 million beneficiaries not having any hospital stay before being admitted to a SNF. It was found that counting days spent under observation status towards the three-day requirement increased expenditure by \$45 million over the 40-month period, indicating that the policy did not dramatically increase Medicare spending or utilization¹.

¹ <https://www.cms.gov/files/document/covid-19-phe-report-congress.pdf>

Additionally, prior to the Public Health Emergency, Medicare Shared Savings Program Accountable Care Organizations (ACOs) had the opportunity to elect for a waiver of the three-inpatient-day requirement. From 2014 to 2019, only 3-5% of ACO SNF stays were attributed to the waiver program. Beneficiaries using the waiver were found to have shorter SNF stays and were more likely to be discharged directly to home, while maintaining the same, or better health outcomes than beneficiaries that did not use the waiver².

SHM has long championed addressing the issues caused by the outdated three-inpatient-day requirement. We urge MedPAC to recommend that Congress repeal the SNF three-inpatient-day stay rule (three-day stay rule) or at least recommend to Congress that the rule be revised to allow time spent in observation status to count toward the requirement

We want to thank MedPAC again for devoting time to discuss trends and key issues in post-acute care. If you have any questions or would like to discuss this issue further, please contact Joshua Boswell, Chief Legal Officer, at jboswell@hospitalmedicine.org.

Sincerely,

A handwritten signature in black ink that reads "E E Howell". The signature is written in a cursive, flowing style.

Eric E. Howell, MD, MHM
Chief Executive Officer
Society of Hospital Medicine

² <https://www.cms.gov/priorities/innovation/data-and-reports/2023/snf-waiver-summary>