

HEALTH CARE POLICY AND LAW

Unproven Rules and the Need for Rigorous Policy Evaluation

Justin J. Choi, MD, MSc; Cary P. Gross, MD; Ishani Ganguli, MD, MPH

Medicare's 3-day rule, which requires a 3-day hospitalization prior to discharge to a skilled nursing facility (SNF) as a prerequisite for SNF reimbursement, was established more than a half century ago. The 3-day rule was designed to encourage clinicians to be



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more selective when discharging patients to costly SNF care.¹ But prior single-hospital and regional studies have linked the rule to longer hospitalizations and higher likelihood of SNF discharge after 3 days. Another study found that when some Medicare Advantage plans eliminated the rule in 2006 to 2010, enrollees had decreased hospital length of stay and no changes in SNF use.² More recently, federal policymakers temporarily waived the 3-day rule during the COVID-19 pandemic, then reinstated it in May 2023, providing an opportunity to examine its impact on traditional Medicare beneficiaries across the country.

In this issue of *JAMA Internal Medicine*, Chen et al³ analyzed this natural experiment with a retrospective study of more than 600 000 traditional Medicare hospitalizations. They used regression discontinuity, a rigorous, quasi-experimental study design based on the premise that hospitalizations just before or after the rule change should not differ for reasons other than the rule change. The authors found that reinstating the 3-day rule failed to reduce SNF utilization or Medicare spending. Furthermore, reinstatement of the rule was associated with a larger share

of hospitalizations lasting at least 3 days, particularly among patients discharged to SNFs. These findings bolster those of prior studies to suggest that the 3-day rule did not work as intended and instead may inappropriately prolong hospital stays, which can contribute to unnecessary patient burden and overcrowding in hospitals. The results give Medicare reason to reconsider a rule that has fallen short and may cause harm.

This study highlights the importance of testing health policies rigorously.³ Policymakers and health systems should be proactive in assessing the long-term impact of implementing or rescinding policies (for example, through randomized or stepped-wedge studies). The Center for Medicare and Medicaid Innovation, which was created to experiment with new payment and delivery models, has launched recent initiatives that reflect its evolving evaluation approach. These include the WISER (Wasteful and Inappropriate Service Reduction) Model, which will evaluate a tailored prior authorization program for traditional Medicare beneficiaries in 6 states prior to full implementation nationwide, and the TEAM (Transforming Episode Accountability Model), which is being rolled out in participating acute care hospitals across 43 states, allowing for comparison with nonparticipating hospitals. Such prospective assessments are essential for understanding the extent to which policies achieve their stated goals as well as their unintended consequences.

Author Affiliations: Department of Medicine, Weill Cornell Medicine, New York, New York (Choi); Editorial Fellow, *JAMA Internal Medicine* (Choi); National Clinician Scholars Program, Yale University, New Haven, Connecticut (Gross); Associate Editor, *JAMA Internal Medicine* (Gross, Ganguli); Harvard Medical School, Boston, Massachusetts (Ganguli).

Corresponding Author: Ishani Ganguli, MD, MPH, Harvard Medical School, 1620 Tremont St, 3rd Floor, Boston, MA 02120 (iganguli@bwh.harvard.edu).

Published Online: February 9, 2026.
doi:10.1001/jamainternmed.2025.7835

Conflict of Interest Disclosures: Dr Gross reported grants from Johnson & Johnson to help develop new approaches to clinical trial data sharing and grants from the National Comprehensive Cancer Network, with funding to the National Comprehensive Cancer Network research program provided by AstraZeneca, outside the submitted work. No other disclosures were reported.

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