



September 11, 2023

The Honorable Chiquita Brooks-LaSure, Administrator
Centers for Medicare and Medicaid Services
Attention: CMS-1786-P
P.O. Box 8010
Baltimore, MD 21244-1810

Dear Administrator Brooks-LaSure:

On behalf of the National Association of Rural Health Clinics (NARHC) and the over 5,300 federally certified Rural Health Clinics (RHC), we are pleased to provide the following comments on the proposed *2024 Medicare Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment System* proposed rule. Our comments are focused on Intensive Outpatient Services in Rural Health Clinics.

Intensive Outpatient Services in Rural Health Clinics

NARHC appreciates Congress establishing Medicare coverage for Intensive Outpatient Program (IOP) services in RHCs and other facility types beginning January 1, 2024, and thanks CMS for providing further details on the benefit as RHCs consider expanding their behavioral health services to include this program.

NARHC is supportive of the codified changes to the RHC scope of benefits and services, certification, and plan of care requirements. Broadly, we are also supportive of the special payment rule established for RHCs to offer these services outside the scope of an RHC encounter eligible for an All-Inclusive Rate (AIR) payment. However, we believe that RHCs should have the same opportunities as hospital-based IOPs to bill, and be adequately reimbursed for, the furnishing of 4-service days as well as 3-service days, depending on the number of services appropriate for their patients.

Given that IOP is an entirely new benefit and that there is no data on its utilization or cost, CMS should grant broad flexibilities to all providers eligible for the benefit so it can be used as necessary for patients. CMS is proposing that RHCs use condition code 92 to identify IOP services, and NARHC believes that if 3 or 4 separate qualifying services are reported on the claim with condition code 92, the RHC should be eligible to receive the associated payment, \$284.00 or \$368.18, respectively, similar to how the program will be structured for hospital-based IOPs.

Further, CMS solicited comments as to whether the payment rate should be adjusted to reflect the variations in costs of furnishing services in different geographic areas. To offer these services, RHCs may need to recruit and retain additional providers and staff or make additional investments in their clinics with associated expenses that may be higher due to their rural locations. Further, many RHCs face challenges with reliable broadband connection, limited professional staff, etc. Therefore, NARHC

supports a payment adjustment of 5% for rural providers (practicing in areas of 50,000 or less) offering IOP services.

CMS proposes that for hospital-based IOPs, and Community Mental Health Centers (CMHCs) the 3-service payment rate would also be utilized for days with three *or fewer services*, “to accommodate occasional instances when a patient is unable to complete a full day of IOP,” in order to “not discourage treatment” when a patient enrolled in IOP cannot complete 3-service day. While this is expected to be infrequently used for such a scenario, NARHC again believes that flexibilities granted within this new benefit for other providers should be extended to RHCs as well. Therefore, we ask CMS to allow RHCs to bill for the 3-service day, in the occasional instance when a patient completes three or fewer services in a day, as well.

Finally, we ask that CMS provide MACs with explicit instruction on this newly billable service and provide oversight to ensure that it is implemented uniformly, so that RHCs offering these services do not face barriers to receiving reimbursement for such services.

We look forward to seeing the ways that RHCs will engage in offering these services to their patients and appreciate CMS’ willingness to revisit such regulations, within their authority, dependent on rural provider experiences and potentially unforeseen limitations over the next few years of implementing IOP.

Conclusion

Your consideration of these comments is appreciated. Should you have any questions or need any additional information, please do not hesitate to contact Nathan Baugh or Sarah Hohman at (202) 544-1880.

Sincerely,

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