

CMCS Informational Bulletin

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FROM: Calder Lynch, Acting Deputy Administrator and
Director Center for Medicaid and CHIP Services
(CMCS)

**SUBJECT: Guidance to State Medicaid Agencies on Dually Eligible Beneficiaries
Receiving Medicare Opioid Treatment Services Effective January 1, 2020**

The purpose of this bulletin is to inform states that starting on January 1, 2020, Medicare will pay Opioid Treatment Programs (OTPs) through bundled payments for opioid use disorder (OUD) treatment services, including medication-assisted treatment (MAT), toxicology testing, and counseling as authorized under Section 2005 of the Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act (Pub. L. 115-271, the SUPPORT Act) and implemented in the final rule CMS-1715-F, “Revisions to Payment Policies under the Medicare Physician Fee Schedule, Quality Payment Program and other Revisions to Part B for CY 2020” published in the Federal Register on November 1, 2019 ([final rule](#)).

For dually eligible beneficiaries (those enrolled in both Medicare and Medicaid) who currently receive OTP services through Medicaid, starting on January 1, 2020, Medicare will become the primary payer for OTP services provided by Medicare-enrolled OTP providers. However, it is likely that not all OTP providers will have completed the Medicare enrollment process and have been granted the ability to bill Medicare by this date. In an effort to prevent any disruption in OTP treatment for dually eligible beneficiaries, CMS is providing background information on the enrollment of providers for this benefit and clarifying options available for coordination of benefits/third party liability under Medicaid.

Background

Typically, State Medicaid Agencies (SMAs) may not pay claims if it is likely that a third party (such as Medicare) is liable for the claim, as Medicaid is generally the payer of last resort. For dually eligible beneficiaries, Medicare is generally liable for claims for Medicare-covered services, including OTP services provided after January 1, 2020, and thus SMAs are required to cost-avoid claims for such services, or seek reimbursement from the provider.

Currently, MAT can be covered as an optional benefit under the Medicaid State Plan. However, section 1006(b) of the SUPPORT Act mandates that all states must cover MAT for categorically needy eligibility groups for the period beginning October 1, 2020 and ending September 30, 2025 (CMS guidance on this provision is forthcoming). The definition of MAT for purposes of this new mandatory benefit is “all drugs approved under section 505 of the Federal Food, Drug,

and Cosmetic Act (21 U.S.C. 355), including methadone, and all biological products licensed under section 351 of the Public Health Service Act (42 U.S.C. 262) to treat opioid use disorders,” as well as associated counseling services and behavioral therapies. ¹

Under federal regulations, methadone for MAT can only be administered in an OTP that is certified by the Substance Abuse and Mental Health Services Administration (SAMHSA). SAMHSA and CMS have reached out to OTP providers about the new Medicare benefit and the need to enroll in Medicare. Medicare enrollment will proceed on a rolling basis. The effective date of an OTP provider’s enrollment will be 30 days prior to the submission of the enrollment application to Medicare, but no earlier than January 1, 2020.

In order for SMAs to promote continuity of care for dually eligible beneficiaries during this transition period, we are clarifying ways Medicaid can pay for services delivered by OTP providers who are not yet enrolled in Medicare while upholding their responsibilities to be the payer of last resort. However, we encourage states to reach out to their Medicaid-enrolled OTP providers to advise them to enroll as quickly as possible in Medicare.

Coordination of Benefits and Third Party Liability Options for States

While we anticipate that some OTP providers will become Medicare-enrolled on or around January 1, 2020, many others will not be Medicare-enrolled by that date. OTP providers cannot submit claims to Medicare or receive payment or even a denial of payment from Medicare unless they are enrolled in Medicare. Newly Medicare-enrolled OTP providers can get a retrospective billing date for up to 30 days prior to the effective date of Medicare enrollment, but no earlier than January 1, 2020.

States must pay claims for OTP services delivered to dually eligible beneficiaries by Medicaid enrolled OTP providers who are not yet enrolled in Medicare, to the extent that the services are covered in the state plan.

In an effort to prevent any disruption in OTP treatment for dually eligible beneficiaries, states have several options during the interim until Medicare approves the OTP’s provider enrollment:

- 1) The state may choose to continue to pay OTP claims for dually eligible individuals for a period in early 2020. A state may do so by not imposing systems edits to automatically reject claims at the start of 2020. Alternatively a state may do so by suspending OTP provider claims for dually eligible beneficiaries until it is able to manually confirm the OTP provider’s Medicare enrollment. Once the state verifies Medicare as a liable third party (that is, once the state verifies that the provider is enrolled in Medicare), the state must seek

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reimbursement within 60 days from the end of the month in which it learns of provider's enrollment with Medicare.

Once an OTP provider becomes Medicare-enrolled, Medicaid must recoup ("chase") all Medicaid payments from the OTP provider back to the effective date of the OTP's Medicare provider enrollment, and advise the provider to bill Medicare to receive payment for these services.

- 2) A state may advise OTP providers they can hold claims and bill Medicare once the OTP provider becomes Medicare-enrolled. This process will allow Medicare to review the claim and then cross the claim to Medicaid for payment automatically.

We encourage states to reach out to their Medicaid-enrolled OTP providers to advise them to enroll as quickly as possible in Medicare so that they may receive Medicare payment.

Determining Medicare Provider Enrollment Status

- 1) States may confirm if an OTP provider is enrolled in Medicare, and the effective date of that enrollment, by searching the public OTP enrollment file. To access the public OTP enrollment file please visit data.cms.gov. Locate the OTP enrollment file by searching 'OTP.' Enrolled OTP providers are searchable by name, National Provider Identifier (NPI), or location. Non enrolled OTP providers will return no search results.

Managed Care

Medicaid managed care plans have additional obligations to ensure parity in the coverage of mental health and substance use disorder benefits compared to medical/surgical benefits. Medicaid managed care plans must comply with 42 CFR 438.3 and part 438, subpart K. States should communicate this information to their Medicaid managed care organizations that cover OTP benefits for dually eligible enrollees.

Conclusion

As we implement the SUPPORT Act, our top priority is ensuring that people with OUD have better access to treatment. We encourage states to consider the best ways to achieve that goal, especially as Medicare participation evolves over time. As always, CMS is happy to provide technical assistance to states on the information outlined in this bulletin.

For specific questions related to third party liability, you may contact Cathy Sturgill, Technical Director within the Division of Health Homes, PACE, and Coordination of Benefits/Third Party Liability at Cathy.Sturgill@cms.hhs.gov.

For specific questions related to benefits and coverage, you may contact Kirsten Jensen, Director, within the Division of Benefits & Coverage at Kirsten.Jensen@cms.hhs.gov.

For specific questions related to Medicaid Management Information System (MMIS) claims processing, you may contact Eugene Gabriyelov, Technical Director, within the Division of State Systems at Eugene.Gabriyelov@cms.hhs.gov.

For specific questions related to how the Upper Payment Limit policy for states that offer the OTP as a clinic benefit applies at the aggregate level, you may contact Jeremy Silanskis within the Financial Management Group at Jeremy.Silanskis@cms.hhs.gov.

For specific questions related to provider enrollment, you may contact Joseph Schultz within the Provider Enrollment and Oversight Group at Joseph.Schultz@cms.hhs.gov.

For specific questions related to Medicaid managed care, you may contact Alexis E. Gibson, Deputy Director of the Division of Managed Care Policy at Alexis.Gibson@cms.hhs.gov.

Additional Resources

[SAMHSA Guidance](#)