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Insights

Expansion of Medicare Coverage for Behavioral Health Services

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As part of CMS' annual **Medicare OPPS and ASC Final Rule**, it finalized new Medicare coverage of intensive outpatient program ("IOP") services performed in hospital outpatient departments, CMHCs, FQHCs, and RHCs. Coverage begins January 1, 2024. This new coverage is intended to address the gap between the previously covered inpatient and partial hospitalization program ("PHP") coverage and outpatient therapy coverage for behavioral health conditions and substance use disorders.

CMS defines IOP services as distinct and organized intensive ambulatory treatment program that offers less than 24-hour daily care other than in an individual's home or in an inpatient or residential setting and furnishes any of the services described in new 42 CFR § 410.44:

- Individual and group therapy with physicians or psychologists or other mental health professionals to the extent authorized under State law.
- Occupational therapy requiring the skills of a qualified occupational therapist, provided by an occupational therapist, or under appropriate supervision of a qualified occupational therapist by an occupational therapy assistant as specified in part 484.
- Services of social workers, trained psychiatric nurses, and other staff trained to work with psychiatric patients.
- Drugs and biologicals furnished for therapeutic purposes, subject to the limitations specified in **42 CFR § 410.29**.
- Individualized activity therapies that are not primarily recreational or diversionary.
- Family counseling, the primary purpose of which is treatment of the individual's condition.
- Patient training and education, to the extent the training and educational activities are closely and clearly related to the individual's care and treatment.
- Diagnostic services.

For coverage, CMS will require a physician to certify that the patient needs a minimum of 9 hours of intensive outpatient services per week, and that such determination be made no less frequently than every other month. Unlike PHP, IOP services are not required to be provided in lieu of inpatient hospitalization.

For outpatient departments and CMHCs, reimbursement will depend on whether three services are provided per day, or four or more services are provided per day. RHCs and FQHCs will be paid the 3-services per day payment amount for hospital outpatient departments (unless the FQHC's actual charges are lower, in which case the FQHC will be paid the lower actual charge amount).

The Final Rule also covers IOP for opioid use disorder in Opioid Treatment Programs ("OTP").

The Final Rule is currently only available in unpublished form, with publication to occur on 11/22/23. CMS published a fact sheet relating to the Rule which can be found **here**.

For question, please contact **Meghan M. Linvill McNab** or **Grant M. Achenbach.**

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