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**Date:** December 22, 2021

**To:** Coordinated Care Organizations  
Dental Care Organizations

**From:** Dave Inbody, CCO Operations Manager  
Julie Johnson, Tribal Affairs Director

**Subject:** Timely payment of Indian Health Care Providers' claims

The Oregon Health Authority (OHA) is aware that some coordinated care organizations (CCOs) and dental care organizations (DCOs) are not in compliance with contract requirements relating to timely claims payment for services provided by Indian Health Care Providers (IHCPs). OHA is providing a brief window of opportunity for CCOs and DCOs (collectively, Managed Care Entities or MCEs) to come into compliance with the requirements before OHA determines whether formal contract action may be necessary for particular MCEs.

As defined in OAR [410-141-3500](#)(39), an Indian Health Care Provider is a health care program operated by the Indian Health Service (IHS) or by an Indian Tribe, Tribal Organization, or Urban Indian Organization (I/T/U). The IHS is an agency of the federal government. I/T/U-operated programs are instruments of sovereign Tribal governments. All IHCPs in Oregon are listed on page 3 of this memo.

The excerpts below from the 2021 MCE contracts are specifically applicable to OHA's concerns about timely payment of IHCP claims. The requirements are the same in the 2022 contracts except where noted.

<i>CCO contract</i>	<i>DCO contract</i>
<ul style="list-style-type: none"> <li><u>Exh. B, Part 2, Sec. 3, Para. b, Sub-Para. (9):</u> Requires CCOs to "...permit (i) its Indian Members to obtain Covered Services from Non-Participating IHCPs from whom the Indian Members are otherwise eligible to receive services; and (ii) Non-Participating IHCPs to refer Indian Members to Participating Providers for Covered Services."</li> </ul>	<ul style="list-style-type: none"> <li><u>Exh. B, Part 2, Sec. 3, Para. b, Sub-Para. (4):</u> Requires DCOs to "...permit its Indian Members to obtain Covered Services from Non-Participating Providers, and be referred to a Participating Provider for Covered Services by, IHCPs in accordance with 42 CFR §438.14(b)(4) and (6)."</li> </ul> <p><i>Same as CCO contract in 2022 DCO contract.</i></p>
<ul style="list-style-type: none"> <li><u>Exh. B, Part 2, Sec. 3, Para. b, Sub-Para. (10):</u> Requires CCOs to "...comply with all applicable payment obligations to IHCPs as set forth in 25 USC § 1621e and 42 CFR § 438.14(b)(2) and (c)."</li> </ul>	<p><i>Omitted from 2021 DCO contract. Included in 2022 DCO contract.</i></p>
<ul style="list-style-type: none"> <li><u>Exh. B, Part 8, Sec. 5, Para. d:</u> Requires MCEs to "...pay or deny at least ninety percent (90%) of Valid Claims within thirty (30) days of receipt and at least ninety-nine percent (99%) of Valid Claims within ninety (90) days of receipt. Contractors shall make an initial determination on ninety-nine percent (99%) of all Valid Claims submitted within sixty (60) days of receipt. The Date of Receipt of a Claim is the date</li> </ul>	

<i>CCO contract</i>	<i>DCO contract</i>
Contractor receives a claim, as indicated by its date stamp thereon. Contractor and its Subcontractors may, by mutual agreement, agree to a different payment schedule provided that the minimum requirements required under 42 CFR § 447.45 and 42 CFR § 447.46 are met.”	
<ul style="list-style-type: none"> <li>• <u>Exh. B, Part 8, Sec. 5, Para. f</u>: Requires MCEs to pay “...Indian Health Care Providers for Covered Services provided to those Members who are (i) enrolled with Contractor as AI/AN and (ii) are eligible to receive services from such Providers. Payment to IHCP for Covered Services shall be made as follows:               <ol style="list-style-type: none"> <li>(1) Participating IHCPs are paid at a rate equal to the rate negotiated between the Contractor and the Participating Provider involved, which for a FQHC may not be less than the level and amount of payment which Contractor would make for the services if the services were furnished by a Participating Provider which is not a FQHC.</li> <li>(2) Non-Participating IHCPs that are not a FQHC must be paid at a rate that is not less than the level and amount of payment which Contractor would make for the services if the services were furnished by a Participating Provider which is not an Indian Health Care Provider.</li> <li>(3) Non-Participating IHCPs that are a FQHC must be paid at a rate equal to the amount of payment that the Contractor would pay a FQHC that is a Participating Provider with respect to Contractor but is not an IHCP for such services.”</li> </ol> </li> <li>• <u>Exh. B, Part 8, Sec. 5, Para. g</u>: Requires MCEs to “...make <b><i>prompt payment</i></b> [emphasis added] to IHCPs including Indian Tribes, Tribal Organizations, or Urban Indian Organizations, in the same time frame required under Para. d above, of this Sec. 5, Ex. B, Part 8.”</li> </ul>	

Also applicable to OHA’s concerns about timely payment of IHCP claims is Section C, Part 10 of Attachment I to Oregon’s current [1115 OHP Demonstration Waiver](#). This section requires “...timely payments to IHCP whether such IHCP is a participating provider or non-participating provider. Under this section, timely payments means that IHCP must be paid the agreed upon rate with a CCO within 30-90 calendar days of billing...” This timeframe for IHCP claims payment is also described in OAR [410-141-3505\(1\)\(b\)\(B\)](#) relating to MCE Subcontracts.

Considering the above requirements, **OHA expects MCEs to pay no later than January 31, 2022, all Valid Claims for services provided by Medicaid-enrolled IHCPs where the date of claim receipt will be 90 days or more as of January 31<sup>st</sup>.** In the coming weeks, OHA will survey Tribal health directors on the status of MCE payment of aging Valid Claims. OHA will follow up with individual MCEs as indicated.

Please remember that if an MCE delegates payment of provider claims to a Subcontractor, such as a third-party administrator or a risk-accepting entity, the MCE is ultimately responsible for the Subcontractor’s timely payment of IHCP claims. OHA encourages MCEs to promptly notify any such delegates about this communication and determine their compliance with the requirements.

### Questions?

If you have questions about this communication, please contact Cheryl Henning, CCO Contracts Administrator and Interim DCO Contracts Administrator, at [Cheryl.L.Henning@dhsosha.state.or.us](mailto:Cheryl.L.Henning@dhsosha.state.or.us).

Thank you for your continued support of the Oregon Health Plan (OHP) and the services you provide to OHP members.

## **Indian Health Care Providers in Oregon**

- Burns Paiute Tribe / Wadatika Health Center
- Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians / Dental Clinic
- Confederated Tribes of Grand Ronde / Grand Ronde Health & Wellness Center
- Confederated Tribes of Siletz Indians / Siletz Community Health Clinic
- Confederated Tribes of the Umatilla Indian Reservation / Yellowhawk Tribal Health Center
- Confederated Tribes of Warm Springs / Indian Health Service / Warm Springs Health and Wellness Center
- Coquille Indian Tribe / Ko-Kwel Wellness Center
- Cow Creek Band of Umpqua Tribe of Indians / Cow Creek Health & Wellness Center (North & South Clinics)
- Klamath Tribes / Klamath Tribal Health & Family Services
- Indian Health Service / Chemawa Indian Health Center
- Native American Rehabilitation Association of the NW (NARA)