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AND TRIBAL LIAISON



ARCHIVES DIVISION

STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

DMAP 86-2024

CHAPTER 410
OREGON HEALTH AUTHORITY
HEALTH SYSTEMS DIVISION: MEDICAL ASSISTANCE PROGRAMS

FILED

04/25/2024 3:31 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Amend Targeted Case Management Rules to Remove Leveraging Requirement for Nurse Family Partnership Program.

EFFECTIVE DATE: 04/25/2024 THROUGH 10/21/2024

AGENCY APPROVED DATE: 04/25/2024

CONTACT: Martha Martinez-Camacho
503-559-0830
hsd.rules@oha.oregon.gov

500 Summer Street NE
Salem, OR 97301

Filed By:
Martha Martinez-Camacho
Rules Coordinator

NEED FOR THE RULE(S):

The rule change implements HB 5204 which was passed with an emergency clause. The bill provides additional funds for counties operating the Nurse Family Partnership (NFP) program. This program provides case management services for pregnant women with high risk factors.

JUSTIFICATION OF TEMPORARY FILING:

(1) The rule change implements HB 5204. This budget bill was passed with an emergency clause. Any delay in the rule change will financially harm the providers currently offering the Nurse Family Partnership (NFP) program. Such a delay would permanently reduce the amount of money available to NFP providers.

(2) A delay would harm counties currently offering the Nurse Family Partnership program to pregnant people with high risk factors.

(3) Failure to take immediate action will reduce funds available to counties operating the NFP program. These counties operate on limited budgets and the money is needed. Failure to act immediately would block these funds and require LPHAs to operate without this support while a permanent rulemaking is completed. Funds for missed months cannot be applied retroactively so LPHAs will lose this money permanently.

(4) The temporary action will release these funds immediately to the LPHAs. These counties will get the full amount of the funds allocated for them.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

OAR 410-138-0005(2) – Oregon Secretary of State
<https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=1725>

AMEND: 410-138-0005

RULE SUMMARY: The rule establishes parameters for payment of targeted case management services including the Nurse Family Partnership program.

CHANGES TO RULE:

410-138-0005

Payment for Targeted Case Management Services Eligible for Federal Financial Participation ¶

- (1) This rule is to be used in conjunction with Targeted Case Management (TCM) rules OAR 410-138-0000 through 410-138-0009 and 410-138-0390 and the Division's General Rules chapter 410, division 120.¶
- (2) The TCM services rules are designed to assist the TCM provider organizations in matching state and federal funds for TCM services defined by Section 1915(g) of the Social Security Act, 42 USC § 1396n(g). Providers of Tribal TCM and the Newborn Nurse Home Visiting Program, and the Nurse Family Partnership Program are exempt from cost-sharing requirements to pay non-federal matching funds.¶
- (3) Payment shall be made to the TCM provider enrolled with the Authority as a unit of government provider meeting the requirements set forth in the provider enrollment agreement.¶
- (4) Signing the provider enrollment agreement sets forth the relationship between the State of Oregon, the Authority, and the TCM provider and constitutes agreement by the TCM provider to comply with all applicable Authority rules and federal and state laws and regulations.¶
- (5) The TCM provider shall bill according to administrative rules in chapter 410, division 138 and the TCM supplemental information. Payments shall be made using the Medicaid Management Information System (MMIS), and the TCM provider shall retain the full payment for covered services provided. The TCM provider shall have a Trading Partner Agreement with the Authority prior to submission of electronic transactions.¶
- (6) TCM authorized under these rules is a cost-sharing (Federal Financial Participation (FFP) matching) program in which the TCM provider as a public entity, unit of government, shall pay the non-federal matching share of the amount of the TCM claims, calculated using the Federal Medical Assistance Percentage (FMAP) rates in effect during the quarter when the TCM claims will be paid:¶
- (a) The TCM provider's non-federal matching share means the public funds share of the Medicaid payment amount. Pursuant to the Social Security Act, 42 CFR 433.51, public funds may be considered as the state's share in claiming federal financial participation, if the public funds meet the following conditions:¶
- (A) The public funds are transferred to the Authority from public entities that are units of government;¶
- (B) The public funds are not federal funds, or they are federal funds authorized by federal law to be used to match other federal funds; and¶
- (C) All sources of funds shall be allowable under the Social Security Act 42 CFR 433 Subpart B;¶
- (b) The unit of government TCM provider shall pay the non-federal matching share to the Authority in accordance with OAR 410-120-0035.¶
- (7) Before the Authority pays for TCM claims, the Authority shall receive the corresponding local match payment as described in this rule. Failure to timely pay the non-federal matching funds to the Authority will delay payment.¶
- (8) The Authority shall not be financially responsible for payment of any claim that CMS disallows under the Medicaid program. If the Authority has previously paid the TCM provider for any claim, which CMS disallows, the TCM provider shall reimburse the Authority the amount of the claim that the Authority has paid to the TCM provider, less any amount previously paid by the unit of government TCM provider to the Authority for the non-federal match portion for that claim.¶
- (9) Providers shall only bill Medicaid for allowable activities in the TCM program that assist individuals eligible under the Medicaid State Plan to gain access to needed medical, social, educational, and other services. One or more of the following allowable activities shall occur before billing:¶
- (a) Assessment;¶
- (b) Development of a care plan;¶
- (c) Referral and follow up; and¶
- (d) Monitoring and follow up.¶
- (10) TCM claims may not duplicate payments made to:¶
- (a) Public agencies or private entities for any other case management activities or direct services provided under the State Plan or OHP, through fee for service, managed care, or other contractual arrangement, that meet the

same need for the same client at the same point in time;¶

(b) A TCM provider by program authorities under different funding authority than OHP, including but not limited to other public health funding;¶

(c) A TCM provider for administrative expenditures reimbursed under agreement with the Authority or any other program or funding source.¶

(11) Medicaid is only liable for the cost of otherwise allowable case management services if there are no other third parties liable to pay. However, while schools are legally liable to provide IDEA-related health services at no cost to eligible children, Medicaid reimbursement is available for these services because section 1903(c) of the Act requires Medicaid to be primary to the U.S. Department of Education for payment for covered Medicaid services furnished to a child with a disability. These services may include health services included in a child's Individualized Education Program (IEP) or Individual Family Service Plan (IFSP) under the IDEA. Payment for those services that are included in the IEP or IFSP may not be available when those services are not covered Medicaid services.¶

(12) The Authority's acceptance of cost data provided by provider organizations for the purpose of establishing rates paid for TCM services does not imply or validate the accuracy of the cost data provided.¶

(13) Reimbursement is subject to all rules and laws pertaining to federal financial participation.

Statutory/Other Authority: ORS 413.042, 414.065

Statutes/Other Implemented: ORS 414.065