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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

FILED
08/19/2023 10:02 AM
ARCHIVES DIVISION
SECRETARY OF STATE

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

FILING CAPTION: Remove Travel Vaccines From Exclusions

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 09/21/2023 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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NEED FOR THE RULE(S)

A new federal requirement, outlined in the Centers for Medicare and Medicaid Services (CMS) Letter requires coverage and payment for approved adult vaccines recommended by the Advisory Committee on Immunization Practices (ACIP) https://www.medicaid.gov/sites/default/files/2023-06/sho23003.pdf and the attached rule text shows the language we would be required to be removed in order to meet federal requirements.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Centers for Medicare & Medicaid Services https://www.medicaid.gov/sites/default/files/2023-06/sho23003.pdf
Prioritized List https://www.oregon.gov/oha/hsd/ohp/pages/prioritized-list.aspx

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

A client on Medicaid/Oregon Health Plan, who is traveling to a country that requires specific travel vaccinations, can receive the vaccines from a Medicaid provider. This change removes a burden or hurdle for people who need to visit those specific countries.

FISCAL AND ECONOMIC IMPACT:

Providers that are already authorized to give certain travel vaccines may use the billing code in the Prioritized List for payment starting October 1, 2023. There will be no financial cost on providers, small businesses, community partners, clients, or the public for the Oregon Health Authority to open a billing code option.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the

expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) No impact, because the rule change is to comply with federal requirements and the Prioritized List.

(2)

(a) No impact, the rule change does not create new obligations for small businesses in this state. This change creates an opportunity for small businesses to received reimbursement from the Medicaid program for travel vaccine. Small businesses seeking this reimbursement will need to comply with already established Medicaid rules, which this rule change does not impact.

(b) No impact, because the rule change does not create new obligations for small businesses in this state.

(c) No impact, because the rule change does not create new obligations for small businesses in this state.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

The advisory Committee on Immunization Practices (ACIP) and the Health Evidence Review Commission includes input from impacted communities, including small businesses.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The Federal Entity, Centers for Medicare and Medicaid Services (CMS), advisory Committee on Immunization Practices (ACIP) created this federal requirement. There will be no wiggle room in interpretation of the rule text, because Oregon Health Plan can no longer exclude certain travel vaccines, and the only change is to remove travel vaccines from the exclusions list.

AMEND: 410-120-1200

RULE SUMMARY: Travel vaccines will now be covered, so the exclusions can no longer list travel vaccines as an exclusion, because it's not excluded. Removing travel vaccines from the exclusions list shows it is now included.

CHANGES TO RULE:

410-120-1200
Excluded Services and Limitations ¶

(1) Certain services or items are not covered under any program or for any group of eligible clients. Service limitations are subject to the Health Evidenced Review Commission (HERC) Prioritized List of Health Services as referenced in OAR 410-141-3830 and the individual program chapter 410 OARs. If the client accepts financial responsibility for a non-covered service, payment is a matter between the provider and the client subject to the requirements of OAR 410-120-1280.¶
(2) The ~~Division of Medical Assistance Progra~~Health Systems ~~(~~Division~~)~~ shall make no payment for any expense incurred for any of the following services or items that are:¶
(a) Not expected to significantly improve the basic health status of the client as determined by Health Systems Division staff or its contracted entities; for example, the Health Systems Division's medical director, medical consultants, dental consultants, or Quality Improvement Organizations (QIO);¶
(b) Determined not medically or dentally appropriate by Health Systems Division staff or authorized representatives, including ~~DMAP~~the Health Systems Division's contracted utilization review organization, or are not covered by the Health Evidence Review Commission Prioritized List of Health Services;¶
(c) Not properly prescribed as required by law or administrative rule by a licensed practitioner practicing within ~~his or he~~their scope of practice or licensure;¶
(d) For routine checkups or examinations for individuals age 21 or older in connection with participation, enrollment, or attendance in a program or activity not related to the improvement of health and rehabilitation of the client. Examples include exams for employment or insurance purposes;¶
(e) Provided by friends or relatives of eligible clients or members of ~~his or he~~their household, except when the friend, relative or household member:¶
(A) Is a health professional acting in a professional capacity; or¶
(B) Is directly employed by the client under the Oregon Department of Human Services (Department) Aging and

People with Disabilities division (APD) Home and Community Based Services or the APD administrative rules~~,~~ ~~OAR~~ 411-034-0000 through 411-034-0090, governing Personal Care Services covered by the State Plan; or¶
(C) Is directly employed by the client under the Department Child Welfare administrative rules, OAR 413-090-0100 through 413-090-0220, for services to children in the care and custody of the Department who have special needs inconsistent with their ages. A family member of a minor client (under the age of 18) must not be legally responsible for the client in order to be a provider of personal care services;¶
(f) For services or items provided to a client who is in the custody of a law enforcement agency or an inmate of a non-medical public institution, including juveniles in detention facilities, except such services as designated by federal statute or regulation as permissible for coverage under the Health Systems Division's administrative rules (i.e., inpatient hospitalizations);¶
(g) Needed for purchase, repair, or replacement of materials or equipment caused by adverse actions of adult clients age 21 and over to personally owned goods or equipment or to items or equipment that the Health Systems Division rented or purchased;¶
(h) Related to a non-covered service~~;~~, some exceptions are identified in the individual provider rules. If the Health Systems Division determines the provision of a service related to a non-covered service is cost effective, the related medical service may, at the discretion of the Health Systems Division and with Health Systems Division prior authorization (PA), be covered;¶
(i) Considered experimental or investigational, that deviates from acceptable and customary standards of medical practice or for which there is insufficient outcome data to indicate efficacy;¶
(j) Identified in the appropriate program rules including the Health Systems Division's Hospital Services program administrative rules, Revenue Codes Section, as non-~~-~~covered services~~:~~.;¶
(k) Requested by or for a client whom the Health Systems Division has determined to be non-compliant with treatment and who is unlikely to benefit from additional related, identical, or similar services;¶
(~~l~~L) For copying or preparing records or documents, except those Administrative Medical Reports requested by the branch offices or the Health Systems Division for casework planning or eligibility determinations;¶
(m) Whose primary intent is to improve appearances, exceptions subject to the HERC coverage and guidelines;¶
(n) Similar or identical to services or items that will achieve the same purpose at a lower cost and where it is anticipated that the outcome for the client will be essentially the same;¶
(o) For the purpose of establishing or reestablishing fertility or pregnancy;¶
(p) Items or services that are for the convenience of the client and are not medically or dentally appropriate;¶
(q) The collection, processing, and storage of autologous blood or blood from selected donors unless a physician certifies that the use of autologous blood or blood from a selected donor is medically appropriate and surgery is scheduled;¶
(r) Educational or training classes that are not intended to improve a medical condition;¶
(s) Outpatient social services except maternity case management services and other social services described as covered in the individual provider rules;¶
(t) Post-mortem exams or burial costs;¶
(u) Radial keratotomies;¶
(v) Recreational therapy;¶
(w) Telephone calls except for:¶
(A) Tobacco cessation counseling as described in OAR 410-130-0190;¶
(B) Maternity case management as described in OAR 410-130-0595;¶
(C) Telemedicine as described in OAR 410-120-1990; and¶
(D) Services specifically identified as allowable for telephonic delivery when appropriate in the mental health and substance use disorder procedure code and reimbursement rates published by the Addiction and Mental Health division~~;~~.;¶
(x) Services that have no standard code set as established according to 45 CFR 162.1000 to 162.1011, unless the Health Systems Division has assigned a procedure code to a service authorized in rule;¶
(y) Whole blood (Whole blood is available at no cost from the Red Cross).~~);~~ The processing, storage, and costs of administering whole blood are covered;¶
(z) ~~Immunizations prescribed for foreign travel;¶~~
~~(aa)~~ Services that are requested or ordered but not provided to the client, unless specified otherwise in individual program rules;¶
(~~bb~~aa) Missed appointments, an appointment that the client fails to keep. Refer to OAR 410-120-1280;¶
(~~cc~~bb) Transportation to meet a client's personal choice of a provider;¶
(~~dd~~cc) Alcoholics Anonymous (AA) and other self-help programs;¶
(~~ee~~dd) Medicare Part D covered prescription drugs or classes of drugs and any cost sharing for those drugs for Medicare-Medicaid Fully Dual Eligible clients, even if the Fully Dual Eligible client is not enrolled in a Medicare Part D plan. See OAR 410-120-1210 for benefit package;¶

(~~ff~~ee) Services provided outside of the United States. Refer to OAR 410-120-1180.
Statutory/Other Authority: ORS 413.042
Statutes/Other Implemented: ORS 414.065, 414.025