OFFICE OF THE SECRETARY OF STATE
SHEMIA FAGAN
SECRETARY OF STATE

CHERYL MYERS
DEPUTY SECRETARY OF STATE

ARCHIVES DIVISION
STEPHANIE CLARK
DIRECTOR

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

NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

FILED
03/28/2022 9:33 AM
ARCHIVES DIVISION
SECRETARY OF STATE

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

FILING CAPTION: Removes Billing Restrictions For Preventive Services and Certain Billing Codes on OHP FFS Fee-Schedule

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 04/21/2022 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.

CONTACT: Nita Kumar
503-847-1357
hsd.rules@dhsoha.state.or.us

500 Summer St NE
Salem,OR 97301

Filed By:
Nita Kumar
Rules Coordinator

NEED FOR THE RULE(S)

Technical rule change –change needed in this OAR to remove a prohibition for billing and change will allow these codes 98960-98962 for preventive services to be opened as broadly as intended by HERC. Will improve access to preventive services, especially in minority communities by expanding providers who can bill for HERC approved preventive services under codes 98960-98962. Anticipated to impact access to services by improving providers ability to offer approved services in their communities across Oregon. This rule change also allows billing Codes to pay in alignment with the OHP fee-for-service Fee-Schedule that were previously restricted. Changes create simplification.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

MMIS reference files for existing billing options for codes HERC approved for Diabetes Chronic Disease Self-Management (CDSMP) and Falls Prevention programs.

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

Minority populations in Oregon are impacted by health inequities and often more difficult access to preventive services. Ensuring that billing for preventive programs often delivered by community-based organizations for preventive services in Medicaid is a positive step toward increasing access to services. The removal of this barrier will have positive impact on participation in linguistically or culturally-tailored programs as HERC intended. Access to preventive services is a key step for Oregon Medicaid in ensuring progress toward reduction of racial inequities in healthcare.

FISCAL AND ECONOMIC IMPACT:

Prevention services are those approved by HERC to prevent complications from chronic disease and reduce likelihood of hospitalizations or need for more costly services and care. We do not anticipate a fiscal impact from this rule change.

Populations impacted by health disparities are more negatively impacted when access to preventive services is not flexible to include delivery by community-based organizations or providers. Removing this billing restriction resulting in opening greater access to services, especially in minority or bilingual communities. Removing billing restriction ensures more access to HERC approved preventive programs.

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) Local Public health departments are often providers of preventive services in Oregon and this will allow them to provide prevention education programs approved by HERC in their local communities. They also often provide guidance to community-based organizations providing culturally and linguistically appropriate preventive services in the community organization, and this will allow for greater support for these services in minority communities. Oregon public receiving Medicaid will have greater access to preventive education services and programs as approved by HERC.

(2) Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:
(a) Healthcare providers in Oregon will be impacted and will be able to receive revenue for providing access to additional prevention services for OHP members. Community-based organizations that currently offer prevention programs without access to Medicaid reimbursement for Medicaid members will be able to be compensated for these services. Currently due to removal of restrictions it creates more healthcare providers who can offer these programs adopted by HERC. These rule changes also provide greater clarity by linking certain payment directly to the adopted OHP fee-for-service fee schedule.
(b) This rule change doesn't change OHA recordkeeping or reporting requirements. Providers will still be required to keep documentation of the services required and chronic health care conditions, however these are not outside of standard recordkeeping in-line with other preventive services they provide in keeping with federal Medicaid requirements.
(c) This rule doesn't change current OHP billing requirements. A computer is necessary to print and submit forms for payment to OHA, or a computer to submit claims electronically. Payment requires registration as an OHP provider. All payments for services are made electronically so additionally require electronic banking information.

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

OHA public health has held several meetings and convened workgroups with CBOs and providers in Oregon to identify barriers to offering and billing for preventive services for Medicaid members. This rule removes administrative restrictions.

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

We are sending out for longer public comment but believe this small billing restriction removal removes bureaucracy and creates greater simplicity in technical payment rules than a topic that will draw much public interest for a RAC. We will be sending OHP providers more detailed billing guidance on HERC recently approved services and programs that will ensure providers have clarity on how to bill for specific programs and services.

AMEND: 410-130-0220

RULE SUMMARY: Remove restriction of reimbursement for codes 98960-98962 to enable supervising providers to bill for HERC approved prevention services. The amendment improves access to preventive services, especially in minority communities by expanding providers who can bill for HERC approved services. This rule change also allows certain billing Codes to pay in alignment with the OHP fee-for-service Fee-Schedule that were previously restricted.

CHANGES TO RULE:

410-130-0220
Not Covered/Bundled Services/Not Valid ¶

(1) Under the Division's Fee-for-Service Medical-Surgical program, no payment shall be made for (a) and (b) of this section except in accordance with applicable exceptions as defined in administrative rule:¶
(a) For the purposes of this rule, the billing codes that are not covered shall be:¶
(A) Services below the funding line or otherwise specified as not covered on the Health Evidence Review Commission (HERC) Prioritized List of Health Services as referenced in OAR 410-141-~~052~~3830;¶
(B) Services specified in OAR 410-120-1200;¶
(C) For Ambulatory Surgical Centers, services listed on Medicare's ASC Covered Surgical Procedures file addendum EE, Surgical Procedures to Be Excluded from Payment in ASCs as referenced in OAR 410-120-1340.¶
(b) For the purposes of this rule, the billing codes that are not eligible for separate reimbursement shall be:¶
(A) Services listed in Medicare's Physician Fee Schedule RVU file as referenced in OAR 410-120-1340 that have a code status of B (Bundled Code) or P (Bundled/Excluded Codes). ~~Certain s~~Services billed with billing codes 98960-98962 are excepted from this subsection and may be reimbursed separately. ~~when the rendered provider for these services is a certified community health worker (CHW);~~¶
(B) For Ambulatory Surgical Centers, services listed on Medicare's ASC Covered Surgical Procedures file as referenced in OAR 410-120-1340 that have payment indicator N1 (Packaged service) or L1 (Packaged item/service);¶
(C) Services listed in the Medicare's Physician Fee Schedule RVU file that have a code status of I (Not valid for Medicare purposes) as referenced in OAR 410-120-1340 may be open for payment. Payment for these services when covered is ~~under another coding option;~~according to the Authority's published fee schedule. ¶
(D) Services listed in the Medicare's Physician Fee Schedule RVU file that have a code status of M (Measurement codes) or Q (Therapy functional information code) as referenced in 410-120-1340.¶
(2) In the event that a covered Fee-for-Service Medical-Surgical program service does not have a payment methodology specified in OAR 410-120-1340 or in other program specific rules, the division may set a reasonable rate for the service's billing codes or designate that the service's billing codes do not pay separately. No reimbursement shall be made for services designated to not pay separately.¶
(3) Nothing in this rule is intended to prevent payment for services by CCOs or in programs other than the Division's Fee-for-Service Medical-Surgical program. See applicable rules for CCO payment and other programs.
Statutory/Other Authority: ORS 413.042
Statutes/Other Implemented: ORS 414.025, 414.065