

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Atlanta Regional Office
61 Forsyth Street, Suite 4T20
Atlanta, Georgia 30303



DIVISION OF MEDICAID & CHILDREN'S HEALTH OPERATIONS

July 1, 2014

Mr. Lawrence Kissner, Commissioner
Department for Medicaid Services
275 East Main Street, 6WA
Frankfort, KY 40621-0001

Re: Potential Medicaid Reimbursement Methodologies for Community Mental Health Centers

Dear Mr. Kissner:

This purpose of this letter is to respond to your request dated June 5, 2014, seeking guidance on potential Medicaid reimbursement methodologies for Community Mental Health Centers (CMHCs).

Based on the information provided, it appears the CMHCs in Kentucky are freestanding clinics and as a result, subject to the clinic upper payment limit (UPL). The clinic UPL is a reasonable estimate of the amount Medicare would reimburse for services provided in specific settings using the Medicare physician fee schedule. Medicare does not pay for clinic services.

There are two methodologies to demonstrate compliance with the clinic UPL. In the first methodology, the state would compare the amount Medicaid pays per current procedural terminology (CPT) code to the amount Medicare pays for the same code. Any Medicaid payment to CMHCs over 100 percent of Medicare would place services provided in CMHCs over the UPL. In order for CMHCs to be paid above the Medicare amount, other types of clinics in the state within the same UPL category (non-state government owned or operated) must be paid at significantly lower levels so that, in the aggregate, payments for all clinics can be shown to be within the aggregate UPL. When these conditions are met, higher payments to CMHCs could be made, regardless of how they compare as a percentage to Medicare rates or whether they are paid supplemental payments or higher fee schedule rates. Another manner for the state to meet compliance with the clinic UPL is to demonstrate cost which would require development of a uniform cost report that must be reviewed and approved by CMS in addition to cost identification and cost allocation process.

Mr. Lawrence Kissner

Page 2

CMS does not have a standard to compare to a specific percentage of the amount Medicare reimburses for a service. We evaluate the state's proposed rates based on economy and efficiency and whether the rate is sufficient to achieve the state's goals. In Kentucky, it appears that CMHCs serve individuals with complex conditions. The state could set the payments based on the level of need and could justify paying higher than Medicare based on the differences in the eligible population served with the condition that all payments can be made within the UPL (as previously discussed).

If you have additional questions, please contact Davida Kimble, Manager, Financial Branch (1) at (404) 562-7496.

Sincerely,



Jackie Glaze

Associate Regional Administrator

Division of Medicaid & Children's Health Operations



**CABINET FOR HEALTH AND FAMILY SERVICES
DEPARTMENT FOR MEDICAID SERVICES**

Steven L. Beshear
Governor

275 East Main Street, 6W-A
Frankfort, KY 40621
www.chfs.ky.gov
P: (502) 564-4321
F: (502) 564-0509

Audrey Tayse Haynes
Secretary

Lawrence Kissner
Commissioner

June 5, 2014

Ms. Jackie Glaze
Associate Administrator for Medicaid
and Children's Health Operations
Atlanta Federal Center
61 Forsyth Street, Room 5B95
Atlanta, GA 30303-8909

RE: Potential Medicaid Reimbursement Methodologies for Community Mental Health Centers

Dear Ms. Glaze:

The Kentucky Department for Medicaid Services (DMS) and Kentucky's Community Mental Health Centers (CMHCs) have been working collaboratively to update and innovate the current Medicaid reimbursement methodology applicable to Kentucky's CMHCs. This letter outlines a few questions which we seek guidance from the Centers for Medicare and Medicaid Services (CMS).

The Cabinet for Health and Family Services has encouraged a partnership between DMS and Kentucky's CMHCs to restructure the Medicaid reimbursement methodology applicable to all CMHCs. DMS and Kentucky's CMHCs continue to explore a reimbursement model that might address CMHC resource costs necessary to maintain Kentucky's expanded behavioral health safety net. As an interim measure, however, DMS and Kentucky's CMHCs are considering a methodology to reimburse rehabilitative services using a Medicare fee schedule model as a base rate for implementation on January 1, 2015. With this model, DMS has the following questions.

- Q1. If DMS implements a Medicare fee schedule to reimburse rehabilitative services provided by Kentucky's CMHCs, may KDMS include an add-on payment or factor adjustment to the fee schedule and still be eligible for federal financial participation (FFP)?**

Background: For example, if the Medicare fee schedule for CPT 90832 is \$67.00 per unit, KDMS would reimburse a CMHC the total of the Medicare fee schedule amount (\$67.00) plus an additional payment amount that could be by a specific amount or a factor adjustment.

- Q2. If the CMS answers "yes" to Q1, what standards or variables must DMS consider in setting the amount of the "add-on" payment in order to qualify the total payment for FFP?**

Background: DMS recognizes that the CMS will determine the eligibility of FFP only for proposed Medicaid reimbursement methodologies that are consistent with 42 U.S.C.

§1396(a)(30)(A); that reimburse only for those costs that the CMS has determined are allowable for the Medicaid program; and that do not exceed the upper payment limit established by 42 C.F.R. §447.321. DMS inquires whether there are specific "check-lists" by which the CMS evaluates such reimbursement mechanisms.

Q3. May DMS implement a supplemental payment methodology, in addition to utilizing a Medicare fee schedule, and still be eligible for FFP?

Background: For example, DMS would implement the Medicare fee schedule to reimburse the rehabilitative service claims submitted by CMHCs throughout the rate year, but KDMS would periodically (e.g., quarterly) make a supplemental payment to each CMHC to assure that total reimbursements to Kentucky's CMHCs are sufficient to address the higher costs Kentucky's CMHCs incur in the ordinary course of providing behavioral health services and to assure access to behavioral health services to Kentucky's expanded Medicaid population.

Q4. If the CMS answers "yes" to Q3, what standards or variables must DMS consider in setting the amount of the supplemental payment methodology in order to qualify the total payments to CMHCs for FFP?

Background: As stated in the background for Q2, DMS recognizes that the CMS will determine the eligibility of FFP only for proposed Medicaid reimbursement methodologies that are consistent with 42 U.S.C. §1396(a)(30)(A); that reimburse only for those costs that the CMS has determined are allowable for the Medicaid program; and that do not exceed the upper payment limit established by 42 C.F.R. §447.321. DMS inquires whether there are specific "check-lists" by which the CMS evaluates such reimbursement mechanisms.

Q5. Would CMS approve a CMHC reimbursement methodology that is a flat % of the Medicare Fee Schedule? For example, we are confident that CMS would approve 100% of the Medicare Fee Schedule, but could we link to 125% or 135% of the Medicare Fee Schedule?

Although DMS has not committed to propose a specific CMHC reimbursement methodology that incorporates any of the reimbursement mechanisms in the questions, DMS recognizes that there are certain Medicaid-allowable costs that may not be adequately accounted for solely in utilizing the Medicare fee schedule for those rehabilitative services frequently necessary for Kentucky's behavioral health Medicaid population. Kentucky's CMHCs have for decades provided an essential safety net for Kentucky's behavioral health needs. Recent independent studies commissioned by the Cabinet for Health and Family Services shows that Kentucky's supply of behavioral health professionals accounts for only 81% of Kentucky total mental health service demand, and the supply of substance abuse professionals is similarly below demand. Kentucky CMHCs are primarily located in rural counties, which represent the greatest need for behavioral health services. As Kentucky's Medicaid population expands in fulfillment of the Affordable Care Act, the anticipated demand for behavioral health care is expected to grow. DMS wants to assure that any reimbursement methodology it proposes to the CMS

Jackie Glaze
June 5, 2014
Page 3

will account for all reasonable, allowable Medicaid costs incurred by Kentucky's CMHCs because of the critical role those providers play in Kentucky's behavioral health network.

I am very grateful for your time and attention to these questions. We hope that the time our respective agencies spend to resolve these questions will serve to save both our agencies time in addressing a proposed reimbursement methodology.

Sincerely,

Lawrence Kissner
Commissioner

CC: Neville Wise, Deputy Commissioner
Lisa Lee, Deputy Commissioner