Illinois Health and Hospital Association

COVID-19 FACT SHEET

NOVEMBER 2020

ADDITIONAL POLICY AND REGULATORY REVISIONS IN RESPONSE TO THE COVID-19 PUBLIC HEALTH EMERGENCY – CMS-9912-IFC

On Nov. 6, the U.S. Department of the Treasury, Department of Labor, and Department of Health and Human Services (the Departments) published a fourth COVID-19 interim final rule with comment period to the *Federal Register* (CMS-9912-IFC). This interim final rule:

- Implements several aspects of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), including COVID-19 vaccine payment and administration;
- Establishes Medicare add-on payments for new COVID-19 treatments under the inpatient and outpatient prospective payment systems (IPPS and OPPS);
- Implements Medicaid beneficiary enrollment maintenance requirements from the Families First Coronavirus Response Act (FFCRA);
- Extends the Comprehensive Care for Joint Replacement model by 6 months; and
- Revises regulations specific to State Innovation Waivers.

The effective date for the majority of the provisions set forth in this interim final rule is Nov. 2, 2020. Comments are due Jan. 4, 2021.

Enhanced Medicare Payments for New COVID-19 Treatments

Inpatient Hospital Department: Eligible inpatient Medicare cases will receive an enhanced payment equal to the lesser of:

1. 65% of the operating outlier threshold for the claim; or
2. 65% of the cost of a COVID-19 stay beyond the operating Medicare payment (including the 20% add-on payment under section 3710 of the CARES Act) for eligible cases.

Outpatient Hospital Department: Medicare will pay for drugs and biologicals (including blood products) authorized or approved by the Food and Drug Administration (FDA) to treat or prevent COVID-19. They will not be packaged into Comprehensive Ambulatory Payment Classification (C-APC).

Price Transparency for COVID-10 Diagnostic Tests

Section 3202(b) of the CARES Act requires providers to publicize cash prices for COVID-19 diagnostic tests during the public health emergency (PHE). This rule adds a new part to regulations at 45 CFR part 182, requiring every provider of a COVID-19 diagnostic test to make public the cash price, defined as the charge that applies to an individual who pays cash (or cash equivalent) for a COVID-19 diagnostic test, on the Internet. If the provider does not have a website, the provider must make the cash price available in writing within two business days upon request and through signage. If providers are noncompliant, CMS may provide written

warning notices detailing specific violations, request that a provider submit and comply with a corrective action plan if noncompliance is not corrected after a warning notice, and or impose a civil monetary penalty on providers that fail to submit or comply with a corrective action plan.

Medicare COVID-19 Vaccine Coverage

This rule implements section 3713 of the CARES Act, which established Medicare Part B coverage and payment for forthcoming COVID-19 vaccines. The provision and administration of COVID-19 vaccines are covered under Medicare Part B without coinsurance or deductible, and this includes vaccines approved by the Food and Drug Administration (FDA) under Emergency Use Authorization. The interim final rule established that the Centers for Medicare & Medicaid Services (CMS) will announce coding and payment for FDA authorized or approved vaccines administration, likely outside of the regulatory process, as soon as possible.

Private Health Plan COVID-19 Vaccine Coverage

This rule implements Section 3203 of the CARES Act, requiring non-grandfathered group health plans and health insurance issuers to cover COVID-19 vaccines without cost sharing. Such private health plans and issuers are also required to cover qualifying coronavirus preventive services within 15 business days from when the United States Preventive Services Task Force (USPSTF) or the Advisory Committee on Immunization Practices (ACIP) of the Centers for Disease Control and Prevention (CDC) recommends a qualifying service. This means that plans and issuers must cover ACIP-recommended COIVD-19 vaccines, even if they are not on the CDC Immunization Schedule.

Medicaid and CHIP COVID-19 Vaccine Coverage

This rule outlines CMS' interpretation of Section 6008 of the FFCRA, which provided states and territories a temporary 6.2 percentage point increase in the Federal Medical Assistance Percentage (FMAP) for Medicaid programs. This FMAP increase is available through the quarter in which the COVID-19 PHE ends. To receive this increase, states must cover COVID-19 vaccines and their administration for Medicaid enrollees without cost sharing. However, CMS is not requiring coverage and administration of COVID-19 vaccines for individuals with limited Medicaid eligibility, or those under an existing Section 1115 demonstration authority that provides a narrow range of benefits that would not otherwise include COVID-19 vaccines. Similarly, this section of the FFCRA does not apply to the Children's Health Insurance Program (CHIP). Most separate CHIP programs for children and/or pregnant women cover ACIP-recommended vaccines with no cost sharing; however, CMS is not requiring this.

After the conclusion of the PHE, state Medicaid programs must cover administration of COVID-19 vaccines recommended by the ACIP for several populations, including:

- All Medicaid-enrolled children under the age of 21 eligible for the Early and Periodic Screening, Diagnostics and Treatment (EPSDT) benefit;
- Any adult populations who receive coverage through Alternative Benefit Plans (ABPs), including the adult Medicaid expansion program established under the Affordable Care Act; and

- Adults in states electing to receive a one-percentage point FMAP increase for offering such vaccines and their administration under the preventive services benefit pursuant to Section 1906(b) of the Social Security Act.

States may choose to continue covering other adult Medicaid beneficiaries after the PHE ends, and vaccine coverage under separate CHIPs will stay the same during and after the PHE.

The Health Resources and Services Administration's (HRSA) COVID-19 Claims Reimbursement program may cover the provision and administration of a COVID-19 vaccine for those Medicaid beneficiaries not covered as outlined above.

Contact:

Please contact IHA for questions.

Sources:
Centers for Medicare & Medicaid Services, Department of Health and Human Services; Internal Revenue Service, Department of the Treasury; Employee Benefits Security Administration, Department of Labor. Additional Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency [CMS-9912-IFC]. November 6, 2020. Available from: https://www.federalregister.gov/documents/2020/11/06/2020-24332/additional-policy-and-regulatory-revisions-in-response-to-the-covid-19-public-health-emergency. Accessed November 6, 2020.