FAQs ON IMPLEMENTATION OF MEDICARE PART B COVERAGE OF

Licensed Professional Counselors/Licensed Mental Health Counselors and Licensed Marriage & Family Therapists

The Mental Health Access Improvement Act which recognizes Licensed Professional Counselors (LPC)/Licensed Mental Health Counselors (LMHC) AND Licensed Marriage and Family Therapists (LMFT) as approved Medicare Part B providers, has passed as part of the 2023 Omnibus federal budget package that was signed by President Biden on December 29, 2022.

The passage of legislation represents a major milestone for individual LPC/LMHC, and LMFT who – after a long advocacy effort – are now recognized providers in the nation's largest health insurance program. This means that LPC/LMHC and LMFT will be able to bill Medicare directly for covered services rendered to seniors and eligible people with disabilities in their private practices.

The Medicare Mental Health Workforce Coalition has developed this Frequently Asked Questions (FAQ) report to help respond to initial questions you have about the legislation and the upcoming implementation of its provisions which will go into effect on January 1, 2024. The Coalition will update this report on an on-going basis.

ELIGIBILITY AND ENROLLMENT PROCEDURES

Will LPC/LMHC and LMFT be able to immediately bill Medicare for diagnosing and treating Medicare beneficiaries in my practice?

The effective date of the provisions regarding LPC/LMHC and LMFT inclusion in the Medicare program is **January 1, 2024**. At that time, you will be able to bill for services provided to Medicare beneficiaries.

The 2022-23 federal budget legislation (called Omnibus) included the ***Mental Health Access Improvement Act*** language that allows LPC/LMHC and LMFT to receive payment under the Medicare Part B program for providing covered mental health services to Medicare beneficiaries, **beginning January 1, 2024.**

How do I know as a LPC/LMHC and LMFT **if I am eligible Medicare provider?**

The *Mental Health Access Improvement Act* specifically spells out who is eligible based on the following language:

"The term 'mental health counselor' means an individual who—'(A) possesses a master's or doctor's degree which qualifies for licensure or certification as a mental health counselor, clinical professional counselor, or professional counselor under the State law of the State in which such individual furnishes the services described in the above paragraph; (B) is licensed or certified as a mental health counselor, clinical professional counselor, or professional counselor by the State in which the services are furnished; (C) after obtaining such a degree has performed at least 2 years of clinical supervised experience in mental health counseling; and '(D) meets such other requirements as specified by the HHS Secretary."

The term 'marriage and family therapist' means an individual who ''(A) possesses a master's or doctor's degree which qualifies for licensure or certification as a marriage and family therapist pursuant t State law of the State in which such individual furnishes the services described in paragraph; ''(B) is licensed or certified as a marriage and family therapist by the State in which such individual furnishes such services; ''(C) after obtaining such degree has performed at least 2 years of clinical supervised experience in marriage and family therapy; and ''(D) meets such other requirements as specified by the Secretary.

How and when will I be able to apply for Medicare-approved provider status?

The Centers for Medicare and Medicaid Services (CMS) – the federal agency that administers all aspects of the Medicare Program and issues rules and regulation – will begin to develop guidance in 2023 to LPC/LMHC and LMFT on how to apply for Medicare recognition. CMS needs this period to provide guidance to counselors as new Medicare providers. Medicare Mental Health Workforce Coalition representatives will be working with CMS on this process and timing, and will provide information as soon as that application process is completed by CMS.

How will I know which mental health service codes are eligible for reimbursement that I have provided to older clients?

In addition to the provider application process, CMS will also provide guidance in 2023 to counselors on which codes to use for billing for services provided to Medicare beneficiaries. The mental health access workforce will also discuss this process in our meetings with CMS officials. The Mental Health Access Improvement Act does provide guidance as well on this issue with the following language:

"The term 'mental health counselor services' means services furnished by a mental health counselor (as defined below for the diagnosis and treatment of mental illnesses (other than services furnished to an inpatient of a hospital), which the (licensed) mental health counselor is legally authorized to perform under State law (or the State regulatory mechanism provided by the State law) of the State in which such services are furnished.

The term 'marriage and family therapist services' means services furnished by a marriage and family therapist for the diagnosis and treatment of mental illnesses (other than services furnished to an inpatient of a hospital), which the licensed marriage and family therapist is legally authorized to perform under State law (or the State regulatory mechanism provided by State) of the State in which such services are furnished.

Although I am not licensed as a "Mental Health Counselor" or "Marriage and Family Therapist" in my state as we have different designations, will I be eligible to participate in the Medicare program?

Yes, as long as you meet the requirements as described in the legislation for licensure. The provisions are similar to licensing at that state level.

How can practitioners opt out of the Medicare program?

Licensed Counselors and LMFTs will need to complete a form in 2023 to opt out. A silver lining in the Medicare Access and CHIP Reauthorization Act of 2015. which was signed into law in mid-April 2015 to repeal the sustainable growth rate (SGR), is a provision in the bill that also repeals the irritating requirement of having to renew an opt-out status every two years. Practitioners opting out of Medicare after June 16, 2015, will need to file an affidavit to opt out of Medicare only once, and it will have permanent effect. The practitioner will no longer need to renew his opt-out every two years thereafter.

Are Medicare enrolled providers subject to site visits?

Rarely. The National Site Visit Contractor (NSVC) at CMS conducts unannounced site visits for all Medicare Part A and B providers and suppliers, including DMEPOS (durable medical equipment, prosthetics, orthotics, and supplies) suppliers. A site visit helps prevent questionable providers and suppliers from enrolling or staying enrolled in the Medicare Program.

What entity serves as the Medicare Administrative Contractor (MAC) for our state/region?

Here is a list of MACs by state and region:

https://www.cms.gov/Medicare/Medicare-Contracting/Medicare-Administrative-Contractors/Downloads/MACs-by-State-June-2019.pdf

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CODING, BILLING, CLAIMS AND REIMBURSEMENT ISSUES

In addition to MFTs and counselors directly billing Medicare for services provided to older clients in their private practices, will there be other opportunities for counselors to participate and receive reimbursement in other settings?

Yes. LPC/LMHC and LMFT are now eligible Medicare Part B providers in Federally Qualified Health Centers (FQHCs). FQHCs are safety net providers that primarily provide services typically furnished in an outpatient clinic. FQHCs provide comprehensive services including preventive health services and mental health and substance abuse services. Licensed Counselors also are now eligible Medicare Part B providers in Rural Health Clinics (RHCs**).** The Rural Health Clinic (RHC) program increases access to primary care services for patients in rural communities. RHCs are required to provide outpatient primary care services such as behavioral health care. As part of the Mental Health Access Improvement Act counselors are now required team members for Medicare hospice interdisciplinary teams. The hospice interdisciplinary team includes physicians, nurses, mental health providers, chaplains, and trained volunteers who work together to address a hospice patient's physical, emotional, and spiritual needs.

How should a provider submit Medicare claims if they have more than on license (e.g., if a psychologist is also a LPMHC or LPMFT would Medicare reimburse them based on the psychologist rate or the LPMHC or the LPMFT rate?

This question will be addressed in the 2024 Medicare Physician Fee Schedule (MPFS), but it is likely that if the practitioner has already been billing Medicare as a Psychologist, he/she will continue to bill as that provider designation. The MPFS will include several provisions on enrollment, coding and billing issues that go into effect on January 1, 2024 for MFTs and counselors.

Now that LPC/LMHC and LMFT provide treatments to Medicare clients, will that change address funding for services for incarcerated individuals for LPC/LMHC and LMFT serving them currently and in the future?

This question will be addressed in the 2024 Medicare Physician Fee Schedule (MPFS).

Are pre-licensed counselors and pre-licensed mft under appropriate supervision eligible to provide services and seek reimbursement? If yes, what are the requirements?

Yes, and the requirements will be spelled out in the in the 2024 Medicare Physician Fee Schedule (MPFS).

What is the time frame for Medicare to process claims?

For clean claims that are submitted electronically, they are generally paid within 14 calendar days by Medicare.

Are providers required to submit electronic claims?

The Administrative Simplification Compliance Act (ASCA) requires that Medicare claims be sent electronically unless a provider qualifies for an exception waiver.

What Other Federal Programs recognize and provide reimbursement to MFTs and counselors?

Many federal programs already recognize mental health counselors including: The National Health Service Corps, Department of Veterans Affairs, U.S. Army and TRICARE.

ADMINISTRATIVE PROCEDURES AND RULES

What will the provider grievance/appeals process look like?

The Medicare appeals process is detailed in the attached link – *Medicare Parts A and B Appeals Process.*

https://www.cms.gov/outreach-and-education/medicare-learning-network-mln/mlnproducts/downloads/medicareappealsprocess.pdf

What are the tele-health policies for provision of behavioral health services to Medicare beneficiaries?

Medicare patients can receive telehealth services for behavioral health care in their homes in any part of the country. This includes most behavioral health services, such as counseling, psychotherapy, and psychiatric evaluations. The in-person visit requirements before a client may be eligible for tele-behavioral health care services is delayed through December 31, 2024.

Sources: Consolidated Appropriations Act, 2023 (PDF), Consolidated Appropriations Act, 2022 (PDF), Consolidated Appropriations Act, 2021 (PDF)

If providers have concerns or questions related to Medicare, is there an ombudsman or entity they can engage?

You can call CMS at Member Services at 1-877-739-1370. The Office of the Managed Care Ombudsman offers free assistance.

If a provider, air ambulance provider, or health care facility believes a health plan isn't complying with the dispute resolution process, then they may contact the No Surprises Help Desk at 1-800-985-3059 to submit a question or complaint. Or, they can submit a complaint online. Supporting documentation may be required. CMS will send a confirmation email to the practitioner when CMS receives their complaint to notify them of next steps and let them know if additional information is required.

Is there a Medicare provider directory for behavioral health practitioners?

Medicare has an online provider directory tool that can be accessed at:

https://www.medicare.gov/forms-help-other-resources/find-compare-health-care-providers

Will there be opportunities to engage in the CMS implementation process this year?

Yes. As Medicare Coalition representatives meet with CMS representatives in 2023, we will be soliciting questions and comments from LPC/LMHC and LMFT on any concerns about implementing rules on Medicare recognition of MFTs and counselors. Further, the Coalition plans to hold a series of training sessions this year on Medicare application procedures and coding issues, and regular updates into 2024 and beyond.

How will Medicare recognition of counselors affect the new Counseling Compact and vice versa?

The relationship between CMS regulations and the Counseling Compact will be provided in the MPFS.

Will CMS provide guidance to providers when they treat dual eligibles?

LPC/LMHC and LMFT must accept assignment for Part B-covered services provided to dually eligible beneficiaries. Assignment means the Medicare Physician Fee Schedule (PFS) amount is payment in full. Special instructions apply when you provide an Advance Beneficiary Notice (ABN) to a dually eligible beneficiary, based on the expectation that Medicare will deny the item or service because it isn't medically reasonable and necessary or is custodial care. ● You can't bill the dually eligible beneficiary up front when you provide an ABN. The Medicare Physician Fee Schedule will provide more guidance when engaging dual eligibles.

DELIVERY SYSTEMS OPPORTUNITIES AND MEDICARE BENEFICIARIES

Are there other ways that LPC/LMHC and LMFT will be able to participate in Medicare behavioral health program initiatives and delivery systems?

The Mental Health Access Improvement Act will open several doors including opportunities to participate in Medicare Integrated Behavioral Health and Primary Care Programs. Public and private insurance programs now widely consider integrating behavioral health care with primary care an effective strategy for improving outcomes for millions of Americans with mental or behavioral health conditions. Medicare makes separate payment to physicians and non-physician practitioners for BHI services they supply to patients over a calendar month service period. Counselors also will be able to participate in "Medicare Innovative Delivery and Payment Programs" such as Accountable Care Organizations (ACOs).

Will counselors be able to provide treatments in 2024 to previous clients who were forced to switch providers when they turned 65 years of age?

Yes. If those clients would like to return to previous providers, they can access any eligible provider.

GENERAL QUESTIONS ABOUT THE MEDICARE PROGRAM

What are the main differences between Original Medicare and Medicare Advantage?

As older adults think about how Medicare will cover their health care needs, their first major decision is whether to enroll in the federally run original Medicare that has been in place since 1966, or select a Medicare Advantage Plan.

Original Medicare

- Original Medicare includes Part A (hospital services) and Part B (physician and other provider services).
- A beneficiary can join a separate Medicare drug plan to get Medicare drug coverage (Part D).
- A beneficiary can use any doctor or hospital that takes Medicare, anywhere in the U.S.
- To help pay out-of-pocket costs in Original Medicare (like your 20% coinsurance), a beneficiary can also buy supplemental coverage, like Medicare Supplement Insurance (Medigap), or have coverage from a former employer or union, or Medicaid.

Medicare Advantage (also known as Part C)

- Medicare Advantage is a Medicare-approved plan from a private company that offers an alternative to Original Medicare for health and drug coverage. These "bundled" plans include Part A, Part B, and usually Part D.
- In most cases, a beneficiary will need to use doctors who are in the plan's network.
- Plans may have lower out-of-pocket costs than Original Medicare.
- Plans may offer some extra benefits that Original Medicare doesn't cover — like vision, hearing, and dental services.

For more information go to: https://www.medicare.gov/basics/get-started-with-medicare/get-more-coverage/your-coverage-options/compare-original-medicare-medicare-advantage

What mental health and substance use disorder benefits does Medicare Part B cover for beneficiaries?

Medicare Part B covers one depression screening per year, a one-time "welcome to Medicare" visit, which includes a review of risk factors for depression, and an annual "wellness" visit, where beneficiaries can discuss their mental health status. Part B covers individual and group psychotherapy services provided by several licensed professionals, and depending on state rules, family counseling is covered if the main purpose is to help with treatment, psychiatric evaluation, medication management, and partial hospitalization.

Part B also covers outpatient services related to substance use disorders. These include opioid use disorder treatment services, such as medication, counseling, drug testing, and individual and group therapy. Medicare covers one alcohol misuse screening per year, and for beneficiaries determined to be misusing alcohol, four counseling sessions per year. Medicare also covers some telehealth services, including for mental health and substance use disorder services as well as non-mental health related services, on both a permanent basis and on a temporary basis as part of the COVID-19 public health emergency.

Updated: Dr. Beverly Smith 4/4/2023 for AMHCA