

National Association of Psychiatric Health Systems

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VIA EMAIL: Sean.Cavanaugh@cms.hhs.gov

May 23, 2016

Sean Cavanaugh
Deputy Administrator and Director
Center for Medicare
Centers for Medicare & Medicaid Services (CMS)
7500 Security Boulevard
Baltimore, MD 21244-1850

Dear Mr. Cavanaugh,

On behalf of the National Association of Psychiatric Health Systems (NAPHS) and the Association for Ambulatory Behavioral Healthcare (AABH), we are writing to express our serious reservation regarding the recently released Medicare Learning Network Matters (SE 1607) titled "Enforcement of the Partial Hospitalization Program (PHP) 20 Hours per Week Billing Requirement." The guidance "updates the operational mechanism PHP providers should use to bill Medicare for PHP services furnished on or after July 1, 2016." In our view, this guidance goes far beyond the current policy and makes substantive changes to the billing process for PHP (not a simple administrative update). For that reason, we urge CMS to not move ahead with the code edit change until there is a thorough review with input from the stakeholder community.

We understand that the PHP benefit is designed as an intensive benefit requiring physician certification that the patient requires a minimum of 20 hours per week of therapeutic services, as demonstrated through the treatment plan. However, the proposed code edit would result in fundamental changes in the payment for PHP services in the following ways:

- The code edit imposes a new requirement for weekly billing. This new requirement is not consistent with MM8048 ("Enforcing Interim Billing for Partial Hospitalization Services"), which allows daily, weekly, or monthly billing as long as they are submitted sequentially. This change would require substantial administrative and clinical changes by PHP providers.
- The preamble to the 2009 OPPS/ACS final rule describes program availability of 20 hours of programming in a week as evidenced by the patient's plan of care, but recognizes that there may be reasons why patients may not be able to meet the 20-hour framework in a given week. The preamble states, "We are clarifying that the patient eligibility requirement that patients require 20 hours of therapeutic services is evidenced in a patient's plan of care rather than in the actual hours of therapeutic services a patient receives."
- There has never been a requirement for patients to attend 20 hours of therapeutic services within a calendar week as a condition of payment for the entire week.
- The code edit would result in denial of a whole week of claims (or more) if the 20 hours were not met in a given week. This is inconsistent with the local coverage determination that allows for exceptions to the 20-hour programming week, which could include such situations as physical illness, weather, holidays, transportation, or medically necessary absences.

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This code edit is not just a simple administrative, computer update, but rather a vast tightening of the current policy. This is why we have serious concerns and why we believe the code edit (as promulgated in the MLN Matters SE 1607) needs to be reconsidered and not implemented. This change to the code edit will seriously impact (if not virtually impede) the delivery of this most important benefit. It fundamentally changes (rather than clarifies) the current code edits for PHP.

Therefore, we request that the code edit not be implemented until CMS conducts a thorough analysis of this matter, which should include stakeholder engagement from the PHP provider community.

In this regard, we would like to request a meeting with CMS to discuss this matter in more detail.

Thank you for your consideration of our concerns, and we look forward to hearing back from you about a mutually convenient time to meet.

Sincerely,

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