



## Opioid Use Disorders Provisions in Proposed 2020 Medicare Physician Fee Schedule

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On August 14, 2019, The Centers for Medicare & Medicaid Services (“CMS”) published in the Federal Register its Calendar Year (“CY”) 2020 Medicare Physician Fee Schedule (“PFS”) Proposed Rule (the “Proposed Rule”). The Proposed Rule contains several new provisions for 2020. CMS is currently accepting comments until September 27, 2019.

Notably, the Proposed Rule’s new provisions: (i) creates a new Medicare Part B benefit bundled payment pertaining to the treatment of Opioid Use Disorder (“OUD”) for Opioid Treatment Programs (“OTP”); and (ii) adds three HCPCS G-codes pertaining to new telehealth services.

### **Bundled payment to OTPs for OUD treatment**

The Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act (the “SUPPORT Act”), which was signed into law on October 24, 2018, established a new Medicare Part B benefit category for OUD treatment services furnished by an OTP beginning on or after January 1, 2020.

As a brief background, OTPs are healthcare facilities that focus on providing Medication Assisted Treatment (“MAT”) for patients with OUD. MAT includes FDA approved drugs: (i) buprenorphine; (ii) buprenorphine-naloxone combination products; (iii) extended-release injectable naloxone; and (iv) methadone. Methadone is unique amongst the MAT therapies in that the Federal Controlled Substance Act (“CSA”) and implementing regulations require methadone to be dispensed by OTPs.

Currently, Medicare Part B or D covers all MAT therapies except methadone. Methadone has not been covered by Medicare Part B or D because methadone is not a drug administered by a physician and because methadone is not a drug dispensed by a pharmacy. However, the SUPPORT Act authorizes OTPs to bill and receive payment from Medicare for OUD

services, including the dispensing and/or administration of methadone.

The SUPPORT Act also established a bundled payment to OTPs for OUD treatment services furnished during an episode of care beginning on or after January 1, 2020. The proposed bundled payment for OUD treatment services includes:

- All of the MAT drug therapy options listed above;
- the dispensing and administration of such MAT drug therapy, if applicable;
- substance use counseling;
- individual and group therapy; and
- toxicology testing.

### **i. Reimbursement for OUD Treatment Services**

As part of the Proposed Rule discussion in determining the bundled payment rates for OUD treatment services, CMS addresses: (i) payment rates for these services under the Medicaid and TRICARE programs; (ii) duration of the episode of care for which the bundled payment is made (including partial episodes); (iii) methodology for determining bundled payment rates for the drug and non-drug components; (iv) site of service; (v) coding; and (vi) beneficiary cost sharing.

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The Proposed Rule also sets out the methodology for determining the bundled payment rates for OUD treatment services at § 410.67. CMS proposes to apply separate payment methodologies for the MAT drug therapy component and the non-drug components when calculating the proposed bundled payments.

The drug component includes the medications approved by the FDA for use in the treatment of OUD. CMS proposes to base the drug component bundled payment rate on the actual type of medication used for treatment due to the significant variation in the cost of the different medications.

The non-drug component bundled payment includes: (i) the costs of dispensing and administration of such medications, if applicable; substance use counseling; (ii) individual and group therapy; and (iii) toxicology testing. In other words, the non-drug component of the OUD treatment services includes all items and services furnished during an episode of care except for the medication.

The Proposed Rule indicates that CMS will combine the amounts determined for the MAT drug therapy component and the non-drug components by these separate methodologies to determine the bundled payment.

In order to qualify as an OTP and receive payment, OTPs will need to meet certain requirements. These requirements include:

- meeting the definition of OTP under the Proposed Rule. The Proposed Rule defines an OTP as a program or practitioner engaged in opioid treatment of individuals with an opioid agonist treatment medication registered under the Federal Controlled Substance Act;
- Enrolling in Medicare as an OTP;

- possessing an effective certification by Substance Abuse and Mental Health Services Administration (“SAMSHA”) and being accredited by an accrediting organization approved by SAMSHA; and
- possessing a provider agreement.

## ii. Telehealth

CMS is also proposing to add three (3) new OUD telehealth bundled episodes to the CY 2020 PFS pursuant to the SUPPORT Act. CMS believes these three new telehealth services are similar to other services currently on the telehealth list under the PFS. Therefore, CMS is proposing to add the following three HCPCS G-codes to the telehealth list:

- HCPCS code GYYY1: Office-based treatment for opioid use disorder, including development of the treatment plan, care coordination, individual therapy and group therapy and counseling; at least 70 minutes in the first calendar month.
- HCPCS code GYYY2: Office-based treatment for opioid use disorder, including care coordination, individual therapy and group therapy and counseling; at least 60 minutes in a subsequent calendar month.
- HCPCS code GYYY3: Office-based treatment for opioid use disorder, including care coordination, individual therapy and group therapy and counseling; each additional 30 minutes beyond the first 120 minutes (List separately in addition to code for primary procedure).

As noted above, CMS is accepting comments on this Proposed Rule until September 27, 2019.

## Additional Information

For more information, please contact a member of Benesch’s Health Care & Life Sciences Practice Group.

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