Medicare’s Impact on Private Payers and State Medicaid Programs: Why All Psychologists Should Engage in CMS Advocacy

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Learning Objectives

• Discuss how Medicare policy impacts state Medicaid programs and reimbursement rates.

• Describe how Medicare policy impacts private payer decisions regarding CPT code access and telehealth.

• Describe RVU productivity metrics and Medicare policy.

• Discuss challenges with engaging non-Medicare providers in CMS/Medicare advocacy efforts.
Medicare as a Driver of Medicaid

Peter D. Liggett, PhD

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Medicare and Medicaid were enacted as companion programs in 1965
• Title XVIII = Medicare
• Title XIX = Medicaid

Medicaid is an optional program that all 50 states, D.C., and 5 U.S. territories participate in
• Arizona was the last state to opt into Medicaid in 1982

CMS—The Centers for Medicare and Medicaid Services (notice there’s only one “M”) are overseen by a single administrator under the Secretary of HHS

Each Medicaid program is the product of a unique agreement between CMS and the state or territory (known as the single state agency).
• There are, however, required benefits and many optional benefits

Medicaid is the single largest payer for mental health services in the U.S. and is increasingly playing a larger role in the reimbursement of substance use disorder services.
• Medicaid accounted for 30% of the $225.1 billion spent on mental health in 2019
Medicaid frequently indexes its rates to the Medicare fee schedule (approximately 33% of states).

About 50% of states use the resource-based relative value scale (RBRVS) developed for Medicare & multiplied by a conversion factor (i.e., a fixed dollar amount).

Changes to the Medicare Benefit frequently drive changes to the Medicaid benefit array and commercial payers’ benefit design.

- E.g., Collaborative Care Codes (i.e., CPT codes 99492, 99493, and 99494)

In the overwhelming number of cases, healthcare coverage, and especially reimbursement, are built on the foundation that Medicare creates.
Medicare as a driver of Medicaid

- CMS’ programs have lead the drive toward alternative and value-based payment models (APM & VBP)
- CMS accepted RUC valuations approximately 90% of the time, according to an analysis of fees negotiated between 1994 and 2010...Down to 71% in 2019.
- Medicare’s continued reliance on the RUC, RVUs, and a FFS rate structure could slow the growth of VBP and APMs.
  - How is the value of the social determinants of health being considered in the RUC process?
  - Pushback on population health models is frequently driven by fears of movement away from volume-based approaches.
Most behavioral health service rates in SC Medicaid are historically tied to cost-based rate setting done locally. This has led to very favorable rates for psychologists due to cost basis and availability of providers. For example, 90791 pays at $225 & 90837 pays at $163 for psychologists. Medicare generally pays $181 and $152 respectively for these procedures.

SC Medicaid’s multi-phasic pricing project seeks to rationalize and modernize all fee schedules. Indexing to Medicare is the key approach.
SC’s Reimbursement Methodology Modernization
“Effective July 1, 2019...”

- “[For] Physician and advance practice providers...SCDHHS will transition from the 2009 to the 2019 Medicare fee schedule as a basis for determining Medicaid reimbursement for physicians.”

- “Base Medicaid rates will be set at 78% of the Medicare fee schedule for evaluation, preventative care and diagnostic services, and at 71% for of the Medicare fee schedule for all other services.”

- “The rates and methodologies reflected in this section apply to services provided to FFS Medicaid beneficiaries. Reimbursement for beneficiaries enrolled in MCOs are governed by the contractual relationship between each MCO and its providers.”
Why Pediatric Psychologists Should Engage in Advocacy with CMS

Lori J. Stark, PhD

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When the CPT codes changed for Health and Behavior Codes to Health Behavior Assessment and Intervention Codes the new codes were accidently omitted from the CMS 2019 code book of approved CPT codes for telehealth.

Impact

- During the pandemic when our services changed from in person to telehealth third party insurers used this omission to deny payment of HBAI delivered via telehealth.

- Our state Medicaid excluded HBAI codes as eligible for reimbursement when they changed the legislation for telehealth rules.
The CPT codes CMS approves affects us all

Resolution
- Worked with the Office of Health & Health Care Financing in addressing.
- APA created a letter describing the accidental omission of HBAI codes and that they are approved for telehealth delivery
- Our billing department then used the letter in their appeal of the denials and got the charges covered
- We are still appealing to OH Medicaid
Other CPT code examples

- 90849 Multifamily groups are evidence-based (e.g., ADHD), time and cost effective

- Because 90849 is not on the CMS list of codes eligible for reimbursement
  - 90849 does not meet Medicare’s standards of being a therapy primarily directed toward treating the beneficiary’s condition. Claims for 90849 may be approved on an individual consideration basis.

- Therefore, many third-party insurers use this as justification for not covering this CPT code

- Worked with Office of Health & Health Care Financing to complete an application to CMS to add 90849 to the CMS telehealth list
CMS sets RVU values

- Many Pediatric and Child Psychologists work in medical centers where productivity is measured by RVUs.

- RVU stands for relative value units. This is the methodology that CMS uses to evaluate the value of a clinical service relative to other clinical services and takes into account the work when providing the service (physical, mental, judgement, stress), technical skills, and time.

- The RVU then influences the reimbursement by Medicare, Medicaid, and private insurers.
CMS sets RVU values

- When the Health and Behavior Codes initially came out the RVU values were much lower than the same time equivalent mental health CPT codes
- This lower rate translated into psychologists using H&B codes needing to see more patients to generate same RVUs as those using mental health CPT codes
- APA worked to revise the codes and recommended higher RVU values.
- 2019 CMS Proposed Rule – advocating to accept the higher RVU values
CMS sets RVU values

- **2020 CMS Proposed Rule**
  - APA advocated for increasing the RVU values for all psychotherapy codes, HBAI codes, and psychological and neuropsychological testing codes.
  - CMS only increased the RVU values for:
    › 90791
    › 90832
    › 90834
    › 90837
  - Impact
    › Higher RVU leads to increased reimbursement rates by Medicare, Medicaid and private insurers
    › RVU productivity metrics
Making the Case to Psychologists About the Impact of CMS

Jim R. Broyles, PhD

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Director of Professional Affairs

- SPTA position current in 16 states.
- DPA’s provide assistance and support with professional issues.
- Legislative advocacy.
- Support with and advocacy for insurance issues.
I work directly with insurers, advocating for policy issues which affect the practice of psychology.

I work directly with members to help ensure compliance with insurance requirements and standards.

My work involves standards set by CMS as well as state Medicaid programs and private insurance.
Has a huge impact on the entire insurance industry. For example:

- Record keeping requirements for all procedures billed.
- Standards for the establishment of medical necessity.
- Key factors relevant to insurance audits of psychologists' records.
CMS Policy

- Psychotherapy session length
- Frequency of psychotherapy session
- Which CPT codes will be approved for coverage
- Whether and which supervised services will be covered
- Telehealth services—how they are delivered and important restrictions.
Admission criteria for all levels of care, such as coordination of care with other providers, addressing family supports, addressing functional impairment, documenting client current medication.

Value of our services which affects reimbursement rates.
Many of these procedures and requirements are similar or identical among various insurers. The reason for this is the standard which is set initially by Medicare then followed by private insurance and state programs.

Any of these CMS policies are subject to change at any time. These changes are very likely to have an impact on the entire health insurance industry. APA and SPTA’s work together to advocate for the best interests of psychologists.
Discussion

- What are the challenges with engaging non-Medicare providers in CMS advocacy efforts?

- What can we do differently to engage non-Medicare providers in our CMS advocacy efforts?
  - APA
  - SPTAs
  - Divisions
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