



Medicaid Update

The Official Newsletter of the New York State Medicaid Program

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New Law in Relation to the Consumer Directed Personal Assistance Program (CDPAP)

Effective April 1, 2016, and in accordance with Chapter 511 of the laws of 2015, changes will go into effect that modify who can work as a CDPAP personal assistant for an eligible participant. The purpose of these changes is to permit parents of adult children to be hired and work as CDPAP personal assistants.

Specifically, this amendment to Social Services Law Section 365-f made the following changes:

- Language was added to amend who may serve as a CDPAP eligible individual's personal assistant:
 - The new law bars persons from being hired as CDPAP assistants if they are legally responsible for the eligible individual's care and support. This means that an adult who is not legally responsible for the eligible individual's care and support may be a CDPAP assistant for that eligible individual. In particular, this means that a parent of an adult child (21 years of age or older) may serve as that adult child's CDPAP assistant. Parents of children who are younger than 21 cannot be hired as that minor child's CDPAP assistant. Consistent with current regulations, spouses and designated representatives also cannot be hired as CDPAP assistants.
 - Any other adult relative of the CDPAP eligible individual may serve as the individual's CDPAP assistant. In all cases, the CDPAP authorization is based on the eligible individual's assessed needs. This applies regardless of whether the CDPAP assistant is a parent or other adult relative of the individual or not related to the individual.

A CDPAP eligible individual's spouse and/or designated representative remains precluded from serving as the individual's personal assistant. Additional specific guidance will be forthcoming.

Questions? Please contact the Division of Long Term Care at (518) 474-5888.

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In This Issue.....

New Law in Relation to the Consumer Directed Personal Assistance Program (CDPAP)..... cover

ALL PROVIDERS

New York Medicaid Management Information System (NYMMIS) Training.....3

New York State Medicaid EHR Incentive Program Update4

POLICY AND BILLING GUIDANCE

Attention Volunteer Driver Organizations: *Reminder:* Requirements for Volunteer Driver Organizations.....5

Attention Taxicab and Livery Providers: *Reminder:* Taxicab and Livery Providers Must Adhere to all Local Municipal and Regulatory Agency License Plate Requirements.....6

New York State Medicaid Coverage of Breast Ultrasonography Following a Diagnostic Mammogram.....7

New York State Medicaid Breast Cancer Surgery Centers.....8

PHARMACY UPDATE

Newly Calculated Federal Upper Limits for Fee-For-Service Covered Outpatient Drugs *Effective April 1, 2016*.....9

New York State Medicaid Fee-For-Service Program Naloxone Coverage through a Non-Patient Specific (Standing Order) Prescription.....10

Electronic Prescribing Blanket Waiver for Exceptional Circumstances.....11

PROVIDER DIRECTORY 13

New York Medicaid Management Information System (NYMMIS) Training

NYMMIS Training is available in instructor-led and webinar formats. For the course schedule, to register for a training session, or for additional information, visit the interim NYMMIS website at www.interimNYMMIS.com. Current courses offered include:

- Introduction to NYMMIS: Features and Functionality
- Introduction to Provider Enrollment

Please contact NYMMISTraining@xerox.com for training inquiries.

All Providers

New York State Medicaid EHR Incentive Program Update

The New York State Medicaid Electronic Health Record (EHR) Incentive Program provides financial incentives to eligible professionals and hospitals to promote the transition to EHRs. Providers who practice using EHRs are in the forefront of improving quality, reducing costs and addressing health disparities. Since December 2011, **over \$751 million** in incentive funds have been distributed **within 22,778** payments to New York State Medicaid providers.

22,778
Payments

\$751+
Million Paid

Are you
eligible?

For more information, visit www.emedny.org/meipass

Did you know?

2016 is the last year that eligible professionals (EPs) may begin participating in the Medicaid EHR Incentive Program. EPs may receive up to \$63,750 over the course of six years for the adoption and meaningful use of certified EHR technology.

Visit www.emedny.org/meipass or contact 877-646-5410 Option 2 for more information.

Pre-Validation Services

Have you already determined your Medicaid patient volume? EPs may submit their data prior to attesting for preliminary review. Pre-validation prior to submitting the complete attestation may subsequently reduce the time of State review.

To process your request, please complete the appropriate pre-validation template and email it to hit@health.ny.gov.

- [Individual EP Pre-Validation](#)
- [Group EPs Pre-Validation](#)

Attestation Deadlines

New York State Medicaid is not ready to accept attestations for Modified Stage 2. An extended deadline for 2015 meaningful use attestations will be determined.

Attestations for Adopt, Implement, or Upgrade (AIU) are still being accepted. **The attestation deadline for payment year 2015 is March 31, 2016.**

Questions? Contact hit@health.ny.gov for program clarifications and details.

Attention Volunteer Driver Organizations

Reminder: Requirements for Volunteer Driver Organizations

Historically in some rural areas of the state, Medicaid Transportation has been provided through volunteer driver organizations. This has served to benefit Medicaid enrollees because it has increased the availability of drivers and vehicles thereby ensuring that enrollees are able to get to their appointments.

All volunteer drivers are required to be affiliated with the volunteer driver organization in the geographic area in which they serve, and all volunteer driver organizations must be enrolled as Medicaid providers.

Volunteer driver organizations are required to:

- Perform criminal background checks, fingerprinting, and driver’s license verification before assigning any Medicaid funded trips to a volunteer driver;
• Ensure that all drivers maintain the appropriate vehicle liability insurance; and
• Maintain a minimum \$1 million “non-owned and hired” automobile insurance limit with a minimum \$3 million umbrella policy.

Volunteer drivers must:

- Maintain a valid license that is appropriate for the size and type of vehicle they are operating;
• Provide curb to curb transportation;
• Maintain all required records necessary to support a Medicaid claim; and
• Meet or exceed Medicaid quality standards (e.g., no smoking, vehicle cleanliness, etc.).

Vehicles used by volunteer drivers must:

- Have at least four working doors;
• Be equipped with working, mounted global positioning system (GPS);
• Pass the most recent New York State annual safety and emissions inspection; and
• Be retired at ten (10) years of age.

Questions may be referred to the Medicaid Transportation Unit at (518) 473-2160 or via email to MedTrans@health.ny.gov.

Attention Taxicab and Livery Providers

Reminder: Taxicab and Livery Providers Must Adhere to All Local Municipal and Regulatory Agency License Plate Requirements.

All taxicab and livery providers transporting Medicaid enrollees must adhere to all local municipal and regulatory agency license plate requirements. Per New York State Department of Motor Vehicle and Traffic Law Article 1, § 121-e. Livery and § 148-a. Taxicab, Medicaid enrolled taxicab and livery providers are defined as follows:

NYS VTL Article 1, § 121-e. Livery: Every motor vehicle, other than a taxicab or a bus, used in the business of transporting passengers for compensation. However, it shall not include vehicles which are rented or leased without a driver.

NYS VTL Article 1, § 148-a. Taxicab: Every motor vehicle, other than a bus, used in the business of transporting passengers for compensation, and operated in such business under a license or permit issued by a local authority. However, it shall not include vehicles which are rented or leased without a driver.

Please note, Medicaid enrolled volunteer agencies are not currently subject to this requirement.

Questions may be referred to the Medicaid Transportation Unit at (518) 473-2160 or via email to MedTrans@health.ny.gov.

New York State Medicaid Coverage of Breast Ultrasonography Following a Diagnostic Mammogram

New York State Medicaid fee-for-service (FFS) and Medicaid Managed Care (MMC) will begin covering breast ultrasonography following a diagnostic mammogram with an abnormal or suspicious finding, effective April 1, 2016 and June 1, 2016, respectively. Breast ultrasonography following an abnormal diagnostic mammogram will no longer require an additional order from the primary provider when performed in a hospital setting. Instead, a note in the radiologist's report will fulfill this requirement. New York State Medicaid is enacting this change in policy to align with Medicare.

A hospital-based radiologist now has the authority to determine if ultrasonography following a diagnostic mammogram is medically necessary based on findings. Ultrasonography may be indicated in addition to diagnostic mammography for the evaluation of palpable masses, ambiguous mammographic findings, or focal asymmetric densities that may represent or mask a mass.

General Background:

Breast ultrasonography, also known as ultrasound, is an imaging method that uses sound waves to evaluate breast tissue. This procedure is non-invasive; the sound waves simply echo back from breast tissue to form a clear picture of internal structures. Breast ultrasonography may aid in distinguishing normal findings like simple cysts or fat lobules from suspicious breast findings that may require biopsy.

Reminders:

- This policy only applies in a hospital setting following an abnormal diagnostic mammogram.
- Breast ultrasonography should not be used as routine practice following a diagnostic mammogram.
- A mammographic finding of heterogeneously dense breast tissue alone does not justify reflexing to a breast ultrasound. In these situations, radiologists must consult with the primary provider to determine if additional testing should be ordered.
- Breast ultrasonography performed in a setting other than a hospital continues to require a written order from the beneficiary's primary provider.
- Breast ultrasonography should only be performed under the supervision of a qualified physician.
- All documentation showing medical necessity must be included in the patient's chart and must be maintained for a minimum of six years for audit purposes.

Medicaid FFS policy questions may be directed to the Office of Health Insurance Programs' Division of Program Development and Management at (518) 473-2160. Questions regarding MMC reimbursement and/or documentation requirements should be directed to the enrollee's MMC plan.

New York State Medicaid Breast Cancer Surgery Centers

Research shows that five-year survival rates increase for women who have their breast cancer surgery performed at high-volume facilities and by high-volume surgeons. Therefore, it is the policy of the New York State Department of Health that Medicaid beneficiaries in Medicaid fee-for-service and Medicaid managed care receive mastectomy and lumpectomy procedures associated with a breast cancer diagnosis, at high-volume facilities defined as averaging 30 or more all-payer surgeries annually over a three-year period. Low-volume facilities will not be reimbursed for breast cancer surgeries provided to Medicaid beneficiaries. This policy is part of an ongoing effort to reform New York State Medicaid and to ensure the purchase of cost-effective, high-quality health care and better outcomes for its beneficiaries.

The Department has completed its eighth annual review of all-payer breast cancer surgical volumes for 2012 through 2014 using the Statewide Planning and Research Cooperative System (SPARCS) database. Sixty-nine low-volume hospitals and ambulatory surgery centers throughout New York State were identified. These facilities have been notified of the restriction effective April 1, 2016. The policy does not restrict a facility's ability to provide diagnostic or excisional biopsies and post-surgical care (chemotherapy, radiation, reconstruction, etc.) for Medicaid patients. Other facilities in the same region as the restricted facilities have met or exceeded the volume threshold and Medicaid patients who require breast cancer surgery should be directed to those facilities.

The Department will annually re-examine all-payer SPARCS surgical volumes to revise the list of low-volume hospitals and ambulatory surgery centers. The annual review will also allow previously restricted providers meeting the minimum three-year average all-payer volume threshold to provide breast cancer surgery services for Medicaid beneficiaries.

For more information and the list of restricted low-volume facilities, please see:
http://www.nyhealth.gov/health_care/medicaid/quality/surgery/cancer/breast/.

Questions may be directed to the Office of Quality and Patient Safety at (518) 486-9012.

Pharmacy Update

Newly Calculated Federal Upper Limits for Fee-For-Service Covered Outpatient Drugs *Effective April 1, 2016*

In accordance with Section 1927(e) of the Social Security Act, as amended by section 2503(a) of the Affordable Care Act, and the requirements in §447.514(b)(1) and (2) of the final regulation, the Centers for Medicare and Medicaid Services (CMS) established a new methodology of calculating the Federal Upper Limit (FUL). The new FUL will be the higher of the National Average Drug Acquisition Cost or an amount equal to 175 percent of the weighted average of the most recently reported monthly Average Manufacturer Prices for pharmaceutically and therapeutically equivalent multiple source drugs.

CMS notes that, at this time, where a multiple source drug has multiple acquisition costs calculated per unit or has no corresponding acquisition cost available for comparison, CMS will not publish a FUL for that drug, as CMS considers those drugs to not have a one-to-one corresponding acquisition cost to FUL for comparison.

The newly calculated FULs will be published by CMS in late March 2016 with an effective date of April 1, 2016, and will be updated on a monthly basis thereafter. State Medicaid programs are mandated to apply the newly calculated FULs by May 1, 2016.

Effective April 1, 2016, the Medicaid Fee-For-Service (FFS) program will no longer use the old FULs in calculating claims reimbursement and will begin to use the newly calculated FULs no later than May 1, 2016, in accordance with current legislated pharmacy reimbursement methodology.

The implementation of the new FULs does not change the Medicaid Pharmacy Program's FFS reimbursement methodology, which can be found at:

http://www.health.ny.gov/health_care/medicaid/program/docs/pharmacy_reimbursement.pdf

New York State Medicaid does not have authority to change FUL pricing. Therefore, questions regarding FUL prices and the FUL Program should be submitted directly to CMS at the following email address:

FUL@cms.hhs.gov. Additional information regarding the FUL can be found at the following website:

<https://www.medicaid.gov/medicaid-chip-program-information/by-topics/benefits/prescription-drugs/federal-upper-limits.html>

The CMS final rule on Covered Outpatient Drugs also addresses changes to pharmacy reimbursement for ingredient cost, professional dispensing fees, and outpatient pharmacy reimbursement of 340B acquired drugs. These changes are mandated by April 1, 2017. The Department of Health is currently reviewing and evaluating these mandates and will continue to communicate with providers as progress is made.

Pharmacy Update

New York State Medicaid Fee-For-Service Program Naloxone Coverage through a Non-Patient Specific (Standing Order) Prescription

Per New York State Public Health Law (Article 33, Title 1, Section 3309(3)(b)(ii)), a pharmacist may dispense an opioid antagonist to an opioid antagonist recipient through a non-patient-specific (standing order) prescription.

Pharmacies outside the City of New York that do not have a standing order are able to dispense naloxone under the Harm Reduction Coalition's standing order by sending an email to: naloxone@harmreduction.org. In some cases, pharmacies may be redirected to local health departments for obtaining a standing order. Pharmacies within the City of New York are able to dispense under a standing order from the New York City Department of Health and Mental Hygiene by following the protocol available at: <http://www1.nyc.gov/site/doh/providers/health-topics/naloxone-and-overdose-prevention-in-pharmacies.page>

Once a pharmacy has received a standing order, its name will be added to the Department of Health's "Directory of Pharmacies Dispensing Naloxone with Standing Orders", which can be found online at: http://www.health.ny.gov/diseases/aids/general/opioid_overdose_prevention/docs/pharmacy_directory.pdf

The following conditions apply for New York State Medicaid Fee-For-Service (FFS) reimbursement:

- Pharmacies should only bill for naloxone that is intended for use by Medicaid FFS non-dual enrollees. Medicaid managed care enrollees will continue to access Naloxone through their health plans. Dual eligible enrollees will continue to access Naloxone through Medicare.
- The ordering or standing order prescriber's NPI and patient information is required on the claim. The prescriber must be enrolled in the New York State Medicaid FFS Program in order for the claim to be reimbursed.
- Services must be provided and documented in accordance with New York State Department of Education laws and regulations.
- Standing orders must be kept on file at the pharmacy.
- Naloxone products reimbursable by New York State Medicaid FFS can be found at: <https://newyork.fhsc.com/> and <https://www.emedny.org/info/formfile.aspx>

Information on programs that conduct overdose trainings, as well as additional resources, can be found at: http://www.health.ny.gov/diseases/aids/general/opioid_overdose_prevention/

Questions regarding New York State Medicaid FFS coverage of naloxone as a pharmacy benefit may be sent to: ppno@health.ny.gov

Electronic Prescribing Blanket Waiver for Exceptional Circumstances

The Commissioner of Health has approved a blanket waiver with respect to the electronic prescribing requirements, pursuant to Public Health Law (PHL) § 281 and Education Law § 6810, that go into effect on March 27, 2016, for exceptional circumstances in which electronic prescribing cannot be performed due to limitations in software functionality. The exceptional circumstances for which this waiver applies are set forth below.

The National Council for Prescription Drug Programs (NCPDP) is a not-for-profit American National Standards Institute (ANSI) - Accredited Standards Development Organization that represents virtually every sector of the pharmacy services industry specific to the transfer of data relation. The standards developed by NCPDP allow only a limited number of characters in the prescription directions to the patient, including, but not limited to, taper doses, insulin sliding scales, and alternating drug doses. Similarly, for compound drugs, no unique identifier is available for the entire formulation. Typing the entire compound on one text line may lead to prescribing or dispensing errors, potentially compromising patient safety.

Further, the New York State Department of Health (Department) is mindful that practitioners are required to issue non-patient specific prescriptions in certain instances, and that such prescriptions cannot be properly entered into the electronic prescription program. Also, the Department acknowledges that in a nursing home/residential health care facility setting, electronic prescribing may not be available due to technological or economic issues or other exceptional circumstances, including a heavy reliance upon oral communications with the prescriber and pharmacy.

For these reasons, pursuant to the authority in Public Health Law § 281(3), the Commissioner of Health waives the following exceptional circumstances from the requirements of electronic prescribing:

1. any practitioner prescribing a controlled or non-controlled substance, containing two (2) or more products, which is compounded by a pharmacist;
2. any practitioner prescribing a controlled or non-controlled substance to be compounded for the direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous or intraspinal infusion;
3. any practitioner prescribing a controlled or non-controlled substance that contains long or complicated directions;
4. any practitioner prescribing a controlled or non-controlled substance that requires a prescription to contain certain elements required by the federal Food and Drug Administration (FDA) that are not able to be accomplished with electronic prescribing;
5. any practitioner prescribing a controlled or non-controlled substance under approved protocols under expedited partner therapy, collaborative drug management or in response to a public health emergency that would allow a non-patient specific prescription;

6. any practitioner prescribing an opioid antagonist that would allow a non-patient specific prescription;
7. any practitioner prescribing a controlled or non-controlled substance under a research protocol;
8. a practitioner prescribing a controlled or non-controlled substance either through an Official New York State Prescription form or an oral prescription communicated to a pharmacist serving as a vendor of pharmaceutical services, by an agent who is a health care practitioner, for patients in nursing homes and residential health care facilities as defined in section twenty-eight hundred one of the public health law;
9. a pharmacist dispensing controlled and non-controlled substance compounded prescriptions, prescriptions containing long or complicated directions, and prescriptions containing certain elements required by the FDA or any other governmental agency that are not able to be accomplished with electronic prescribing;
10. a pharmacist dispensing prescriptions issued under a research protocol, or under approved protocols for expedited partner therapy, or for collaborative drug management;
11. a pharmacist dispensing non-patient specific prescriptions, including opioid antagonists, or prescriptions issued in response to a public health emergency issued; and
12. a pharmacist serving as a vendor of pharmaceutical services dispensing a controlled or non-controlled substance through an Official New York State Prescription form or an oral prescription communicated by an agent who is a health care practitioner, for patients in nursing homes and residential health care facilities as defined in section twenty-eight hundred one of the public health law.

Practitioners issuing prescriptions in the above-listed exceptional circumstances may either use the Official New York State Prescription Form or issue an oral prescription; provided, however, that oral prescriptions remain subject to § 3334 and § 3337 of the PHL, which provide for oral prescriptions of controlled substances in emergencies and for other limited purposes, and subject to § 6810 of the Education Law. Pharmacists may dispense prescriptions issued on the Official New York State Prescription Form or oral prescriptions in the above-listed exceptional circumstances.

This waiver is hereby issued for the above-listed exceptional circumstances and shall be effective until March 26, 2017. Before March 26, 2017, the Commissioner of Health will determine whether the software available for electronic prescribing has sufficient functionality to accommodate these exceptional circumstances and whether New York's nursing homes/residential health care facilities are better prepared to comply with e-prescribing requirements.

This blanket waiver shall not affect general waivers issued to practitioners pursuant to Public Health Law § 281.

For additional information regarding e-prescribing, visit the Bureau of Narcotic's webpage at: http://www.health.ny.gov/professionals/narcotic/electronic_prescribing/

Provider Directory

Office of the Medicaid Inspector General:

For suspected fraud complaints/allegations, call 1-877-87FRAUD, (877) 873-7283, or visit www.omig.ny.gov.

Provider Manuals/Companion Guides, Enrollment Information/Forms/Training Schedules:

Please visit the eMedNY website at: www.emedny.org.

Providers wishing to listen to the current week's check/EFT amounts:

Please call (866) 307-5549 (available Thursday PM for one week for the current week's amount).

Do you have questions about billing and performing MEVS transactions?

Please call the eMedNY Call Center at (800) 343-9000.

Provider Training:

To sign up for a provider seminar in your area, please enroll online at: <http://www.emedny.org/training/index.aspx>. For individual training requests, call (800) 343-9000 or e-mail: emednyproviderrelations@csc.com.

Enrollee Eligibility:

Call the Touchtone Telephone Verification System at (800) 997-1111.

Medicaid Prescriber Education Program:

For current information on best practices in pharmacotherapy, please visit the following websites: http://www.health.ny.gov/health_care/medicaid/program/prescriber_education/presc-educationprog
<http://nypep.nysdoh.suny.edu/home>

Need to change your address? Does your enrollment file need to be updated because you have experienced a change in ownership? Do you want to enroll another NPI? Did you receive a letter advising you to revalidate your enrollment?

Visit www.emedny.org/info/ProviderEnrollment/index.aspx and choose the link appropriate for you (e.g., physician, nursing home, dental group, etc.).

Medicaid Electronic Health Record Incentive Program questions?

Contact the New York Medicaid EHR Call Center at (877) 646-5410 for assistance.

Comments and Suggestions Regarding This Publication?

Please contact the editor, Amy Siegfried, at medicaidupdate@health.ny.gov