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Changes in Federal Medicaid Rules Effective January 2014 Allow Payment for Preventive Services by Non-licensed Individuals, Including Community Health Workers (CHWs)

A Policy Brief from the Project on Community Health Worker Policy and Practice, University of Texas – Houston Institute for Health Policy – October 2013

In the Federal Register on July 15, 2013, the following changes to Medicaid rules were published (78 FR 135 p. 42306):

§ 440.130 Diagnostic, screening, preventive, and rehabilitative services.
* * * * *
(c) *Preventive services* means services recommended by a physician or other licensed practitioner of the healing arts acting within the scope of authorized practice under State law to—
(1) Prevent disease, disability, and other health conditions or their progression;
(2) Prolong life; and
(3) Promote physical and mental health and efficiency.
* * * * *

Key to this change is that the highlighted language previously referred to services "provided by" a licensed clinician.

In official responses to comments published in the same issue of the FR (pp. 42226-42228), the Center for Medicare and Medicaid Services (CMS) notes the following:

"We agree that the amended regulatory definition of who can provide preventive services will result in improved access to preventive services and facilitate partnership between providers and advocates… The amended definition may result in greater access for individuals who suffer from chronic disease as the pool of providers could increase significantly… " (p. 42226)

"The proposed revision in the definition of 'preventive services' at § 440.130 would not primarily affect the scope of preventive services required to be offered as EHB [Essential Health Benefits] in the state benchmark plans. Rather, the amendment would greatly expand the scope of the preventive services benefit that may be offered as an optional service under standard state MA [Medical Assistance] plans… This regulatory change will primarily impact the provision of preventive services under the regular state Medicaid plan." (p. 42227)

"…broadening the scope of providers who can provide preventive services in the Medicaid program may reduce, rather than increase, program expenditures by making available services in the most efficient and effective settings." (p. 42227)

"States also have some options in determining coverage of preventive services, and can specify the options, and specific billing codes, for covered preventive services using the state plan amendment process." (p. 42227)

"States will have discretion to determine which providers will provide the service using the state plan amendment process." (p. 42228)

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Key points to consider in advocating for Medicaid coverage of preventive services by CHWs and other "nonlicensed" providers:

1. For any State, this change to their Medicaid services is optional: they are not required to do it.
2. Changes in your State can be implemented through a State Plan Amendment, which in some cases may require authorizing legislation. You should contact your State Medicaid Office to encourage them to consider such an Amendment.
3. Your State Medicaid Office will need to decide what preventive services to include in this change, what procedure (CPT) codes will apply for billing purposes, and what additional occupations (such as CHWs) will be eligible to provide them. This may in turn require the State to impose some standard basic qualifications for these occupations, if those qualifications have not already been defined, since these are not licensed clinical professions in which the qualifications are specified as requirements for licensure.
4. Many States may choose to implement such changes through their contracts with Medicaid Managed Care Organizations. This may offer the MCOs greater latitude in spending on preventive care, since services by CHWs in many cases now must be classified as administrative charges, which are capped.
5. There were some comments on the proposed federal rules opposing this change, saying the services should still be provided by licensed clinicians; CMS disagreed with these comments. In your State, some professional groups may also oppose the change at the State level.
6. These changes will require the support of current Medicaid providers and others, both in order to persuade the State to adopt them and in order for providers to make use of the new policies once they are adopted.
7. Keep in mind that CHWs should be at the center of any effort to set standards for the CHW field. If your state has local or statewide CHW networks or associations, they should be involved in planning and carrying out an advocacy effort. If not, CHWs should come together to proactively identify steps to set standards for their practice. The American Public Health Association (APHA) CHW Section has one of the most up-to-date lists of such networks. If there is no network/association in your area, CHW allies and supporters can help bring CHWs together at the local level to play a leadership role in these changes.

NOTE: this brief represents the best available information as of November 1, 2013. Anecdotal reports from states and national organizations suggest that CMS has not published further guidance on implementation of these rules as of that date.

Contact the Project on CHW Policy and Practice at
https://sph.uth.edu/research/centers/ihp/community-health-workers/

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