

Notice of Final Agency Action

SUBJECT: MassHealth: Payment Adjustment for Provider Preventable Conditions

AGENCY: Massachusetts Executive Office of Health and Human Services (EOHHS), Office of Medicaid

Introduction:

This Notice of Final Agency Action describes the MassHealth agency's implementation of changes to provider payment methods required by Section 2702 of the Patient Protection and Affordable Care Act (Pub. L. 111-148) and corresponding federal regulations at 42 CFR 447.26 governing non-payment for provider preventable conditions (PPCs) first advertised in the *Massachusetts Register* on September 30, 2011. This Notice also describes and summarizes changes to the MassHealth policy concerning non-payment for serious reportable events (SREs), since the SRE policy is affected by the provider preventable condition policy. All changes described in this Notice of Final Agency Action are effective for dates of service on or after July 1, 2012.

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A. Changes in Payment Methodology for Provider Preventable Conditions

1. Inpatient Hospital Services –

For inpatient hospital services, provider preventable conditions are those conditions that are identified as Health Care-Acquired Conditions (HCACs) and Other Provider-Preventable Conditions (OPPCs), as defined by federal regulations at 42 C.F.R. 447.26(b), to the extent the OPPCs occur in the inpatient hospital setting (together, for purposes of Section A.1., "PPCs").

Effective for dates of service on or after July 1, 2012, when an inpatient hospital reports via claims submission, a PPC that the hospital indicates was not present on admission, MassHealth will reduce payments to the hospital as follows:

- a. For services that are otherwise paid a Standard Payment Amount Per Discharge (SPAD) at acute inpatient hospitals:
 - i. MassHealth will not pay the SPAD if the hospital reports that only PPC-related services were delivered during the first 20 days of the inpatient admission, and will exclude all PPC-related costs/services

when determining future year payment rates that are calculated using a data source that would otherwise include the PPC.

- ii. MassHealth will pay the SPAD if the hospital reports that non-PPC-related services were also delivered during the first 20 days of the inpatient admission, but will exclude all reported PPC-related costs/services when determining future year payment rates that are calculated using a data source that would otherwise include the PPC.
- b. For services that are otherwise paid a per diem rate at acute inpatient hospitals, privately-owned chronic disease and rehabilitation inpatient hospitals, and privately-owned psychiatric and substance abuse treatment inpatient hospitals:
 - i. MassHealth will not pay the per diem if the hospital reports that only PPC-related services were delivered on that day, and will exclude all reported PPC-related costs/services when determining future year payment rates that are calculated using a data source that would otherwise include the PPC.
 - ii. MassHealth will pay the per diem if the hospital reports that non-PPC-related services were also delivered on that day, but will exclude all reported PPC-related costs/services when determining future year payment rates that are calculated using a data source that would otherwise include the PPC.
- c. For services at State-owned non-acute inpatient hospitals operated by the Department of Public Health and the Department of Mental Health: MassHealth will not pay for services which the hospital indicates are PPC-related, will exclude PPC-related costs/services during any retrospective reconciliation, and will exclude PPC-related costs/services when determining future year payment rates that are calculated using a data source that would otherwise include the PPC.
- d. For acute inpatient Hospital-based physician services: MassHealth will not pay for acute inpatient Hospital-Based physician services that are reported as PPC-related services.
- e. For follow-up hospital services in the same hospital at acute inpatient hospitals, private chronic disease and rehabilitation inpatient hospitals, and State-owned non-acute inpatient hospitals operated by the Department of Public Health: If a hospital reports that it provided follow-up inpatient hospital services that were solely the result of a previous PPC (inpatient or outpatient) that occurred while the member was being cared for at a facility covered under the same hospital license, MassHealth will not pay for the reported follow-up services. If the hospital reports that non-PPC-related services were provided during the follow-up stay, payment will be made, but MassHealth will exclude all reported PPC-related costs/services when determining future year payment rates that are calculated using a data source that would otherwise include the PPC.

2. **Outpatient Hospital Services** –

For outpatient hospital services, provider preventable conditions are those conditions that are identified as Other Provider-Preventable Conditions (OPPCs), as defined by federal regulations at 42 C.F.R. 447.26(b), to the extent the OPPCs occur in the outpatient hospital setting (together, for purposes of Section A.2., “PPCs”)

Effective for dates of service on or after July 1, 2012, when an outpatient hospital, including any satellite clinics, reports a PPC via claims submission, MassHealth will reduce payments to the hospital as follows:

- a. For services at acute outpatient hospital that are otherwise paid a Payment Amount Per Episode (PAPE):
 - i. MassHealth will not pay the PAPE if the hospital reports that only PPC-related services were delivered during the episode of care, and will exclude all reported PPC-related costs/services when determining future year payment rates that are calculated using a data source that would otherwise include the PPC.
 - ii. MassHealth will pay the PAPE if the hospital reports that non-PPC-related services were also delivered during the same episode of care, but will exclude reported PPC-related costs/services when determining future year payment rates that are calculated using a data source that would otherwise include the PPC.
- b. For services at privately-owned chronic disease and rehabilitation outpatient hospitals, privately-owned psychiatric and substance abuse treatment outpatient hospitals: MassHealth will not pay for outpatient hospital services that a privately-owned chronic disease and rehabilitation outpatient hospital or a privately-owned psychiatric and substance abuse treatment outpatient hospital reports are PPC-related, and will exclude all reported PPC-related costs/services when determining future year payment rates that are calculated using a data source that would otherwise include the PPC.
- c. For services at State-owned non-acute outpatient hospitals operated by the Department of Public Health and the Department of Mental Health: MassHealth will not pay for services which the hospital reports are PPC-related, will exclude PPC-related costs/services during any retrospective reconciliation, and will exclude PPC-related costs/services when determining future year payment rates that are calculated using a data source that would otherwise include the PPC.
- d. For acute outpatient Hospital-based physician services: MassHealth will not pay for acute outpatient Hospital-based physician services that are reported as PPC-related services.
- e. For follow-up hospital services in the same hospital at acute outpatient hospitals, private chronic disease and rehabilitation outpatient hospitals,

and State-owned non-acute inpatient hospitals operated by the Department of Public Health:

If a hospital reports that it provided follow-up outpatient hospital services that were solely the result of a previous PPC (inpatient or outpatient) that occurred while the member was being cared for at a facility covered under the same hospital license, MassHealth will not pay for the reported follow-up services. If the hospital reports that non-PPC-related services were provided during the follow-up visit, payment will be made, but MassHealth will exclude all reported PPC-related costs/services when determining future year payment rates that are calculated using a data source that would otherwise include the PPC.

3. Non-Hospital Services

- a. For services that are not billed by hospital providers, provider preventable conditions are those conditions that are identified as Other Provider-Preventable Conditions (OPPCs), as defined by federal regulations at 42 C.F.R. 447.26(b), to the extent those OPPCs occur in a health care setting (together, for purposes of Section A.3., “PPCs”).
- b. Effective for dates of service on or after July 1, 2012, for PPCs occurring in a health care setting, MassHealth will not pay for PPC-related services if the non-hospital provider reports a PPC. If a provider’s future year payment rate is calculated using a data source that would otherwise include the PPC, all reported PPC-related costs/services will be excluded from the calculation.

- 4. Third Party Liability and Crossover Payments; Member Charges:** For purposes of Sections A.1 through A.3, above, the PPC non-payment provisions also apply to third-party liability and crossover payments by MassHealth. In addition, charges for service, including co-payments or deductibles, deemed non-billable to MassHealth are not billable to the member.

B. Changes in Payment Methodology for Serious Reportable Events

1. Inpatient and Outpatient Hospitals for Which MassHealth Applies Non-payment Methods for Serious Reportable Events Designated by the Department of Public Health:

Effective for dates of service on or after July 1, 2012, for inpatient and outpatient hospitals for which MassHealth currently applies nonpayment methods for the occurrence of serious reportable events (SREs) that are designated by the Department of Public Health, MassHealth will no longer apply those non-payment methods to those SREs which MassHealth has determined constitute Provider Preventable Conditions for which the provider payment methods described above in Section A will apply. MassHealth will

continue to apply the current SRE non-payment methods to the remaining SREs which MassHealth has determined are not PPCs.

2. Freestanding Ambulatory Surgery Centers (FASCs):

Effective for dates of service on or after July 1, 2012, MassHealth will not pay an FASC for FASC services if a serious reportable event occurs on premises covered by the FASC's license that was preventable, within the freestanding ambulatory surgery center's control, and unambiguously the result of a system failure, as described in applicable Department of Public Health regulations as in effect on the date of service. MassHealth will also not pay the FASC for FASC services that are made necessary by, or are provided as a result of such a serious reportable event.

The serious reportable events for this purpose will be those events designated by the Department of Public Health which MassHealth has determined do not constitute Provider Preventable Conditions. Non-payment provisions also apply to third-party liability and crossover payments by MassHealth. Charges for services, including co-payments or deductibles, deemed non-billable to MassHealth are not billable to the member.

Justification:

These changes are required by Section 2702 of the Patient Protection and Affordable Care Act and corresponding regulations governing non-payment for provider preventable conditions (PPCs). Applying SRE non-payment provisions to FASCs is as a result of State law and Department of Public Health regulations.

Estimated Fiscal Effect:

EOHHS estimates that the changes in the payment methods described here will result in a decrease in annual aggregate expenditures of approximately \$395,000.

Statutory Authority: M.G.L. c. 118G; M.G.L. c. 118E; 42 USC §1396a; 42 USC §1396b; M.G.L. c. 111, § 51H

Related Regulations: 42 CFR Parts 447, 438 and 434; 105 CMR 130.332 and 140.308.