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of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Health

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Tuesday, April 9, 2024

The Honorable Senator Wilson
Alaska State Legislature
State Capitol, Room 121
Juneau Ak, 99801

RE: *Efforts Around FQHC Reimbursement*

Dear Senator Wilson,

In August 2023, the Department of Health (the Department) received communications from Alaska Primary Care Association (APCA) that raised a series of issues concerning Medicaid reimbursement for Federally Qualified Health Centers (FQHC). The issues are highly nuanced, focusing on interpretation of federal and state statute and regulations and the complexity has required considerable subject matter expertise. The Department is continuing to work with APCA to address these issues through written correspondence and meetings. As a result of these discussions, the Department has identified areas of agreement and has taken steps to address those. Regarding other areas of concern, we are continuing to discuss and evaluate further through the use of workgroups.

Following is a high-level summary of the key issues that the Department is working with APCA to address.

Removal of Productivity Standards

APCA shared with the Department that the use of productivity standards in establishing FQHC rates presented challenges for its members. The Department recognized that the productivity standards in our state regulations were outdated and that the use of productivity standards in rate setting for FQHCs has been largely discredited by CMS. In response, the Department undertook regulatory action to remove productivity standards in establishing FQHC rates for purposes of the Alternate Payment Methodology (APM). In 2023, these proposed regulations moved through the regulatory review process in accordance with the Administrative Procedures Act and allowing for public comment. In 2024, the Lieutenant Governor's Office authorized the regulations thereby finalizing the regulatory actions needed to remove productivity standard requirements from the APM. The Department is confident that the removal of the productivity standards will benefit FQHCs who elect to use the APM.

Non-Application of Inflationary Adjustment for SFY 2016-2018

APCA has expressed concern about the Department's non-application of the inflationary adjustment for SFY 2016-2018. In recognition of the negative effects this non-application had on participating FQHCs, the Department took action to adjust the inflationary factor moving forward so that rates will be paid out at the rate they would have been had the SFY 2016-2018 inflationary adjustments been applied.

The Department's approach to this is to update all Prospective Payment System (PPS) FQHC rates effective July 1, 2024, granting the SFY16-18 inflation. The only providers who will receive notification of the updated PPS rates are those that 1) receive PPS rates and were enrolled in Alaska Medicaid since SFY16 or 2) are on the Alternative Payment Methodology (APM) rate but have a PPS rate greater than their APM rate once SFY16-18 inflation has been granted.

The Department is restructuring rate letters such that all providers on the APM rate will receive notification each year of what their PPS rate is for the year.

Change in Scope Adjustments

APCA expressed concerns about the lack of clear guidance on intensity, duration, and scope related to change in scope (COS) adjustments. The Department is conducting an internal review of its policies related to COS adjustments. In efforts to improve its guidance, the Department provided APCA with a draft FAQ document on current COS processes for APCA's review and comment.

The Department is interested in updating FQHC regulations, including potential changes to the COS adjustment process. In a meeting with APCA on January 4, 2024, the Department discussed this topic at length with APCA and proposed a workgroup be formed to include the consultants from the state and from the provider association. The workgroup will cover topics that include but are not be limited to:

1. What should qualify as a change of scope?
2. How does the Department measure if a COS occurred? This should include specific metrics and what support document is utilized. For example, to determine if a COS has been met for an addition/deletion of service, the Department would utilize a change in the checked box on Form 5a.
3. When do providers have to notify the Department that a COS rate adjustment is requested? Can a provider give future notice of the COS?
4. When will the COS be effective? Is it retroactive?
5. How long does the Department have to calculate the COS adjustment?
6. If future notification of the COS is allowed, does the 'estimated' COS adjustment stay in place or is it recalculated after actual costs are incurred?
7. How is a COS calculated?

8. How is the COS adjustment on an APM rate affected by rebasing? Is the COS adjustment removed once rebasing has occurred?
9. How often is a COS allowed?

The Department continues to work with APCA on scheduling this work group.

APM – Applicability of Upper Payment Limit (UPL)

APCA has requested that the Department pursue a State Plan amendment to remove the UPL provision from Alaska's State Plan. As discussed in our January 4 meeting with APCA, the Department has historically taken a conservative approach to State Plan amendments, as amending one item of the State Plan opens the entirety of the plan to review and mediation by the Centers for Medicare & Medicaid Services (CMS)/federal regulations. This review has had unintended consequences for the State and health care providers in the past. However, the Department is looking for upcoming opportunities to incorporate an amendment like this into the State Plan.

To date, per federal guidance, the Department has not included FQHCs in the Clinic UPL. The Department is not opposed to removing the mention of UPLs (as currently listed in 7 AAC 140.200(f)) during a regulatory clean up.

APM – Use of Medicare Cost Reports for APM

The Department has included in the draft FAQs the crosswalk of what cost report lines are utilized in Alaska Medicaid FQHC APM rate setting. (See FAQ "What cost centers are utilized in rebasing?") This information was shared verbally in our January 4 meeting with APCA. APCA contractors were reviewing the crosswalk language, and the parties will meet to review a Medicare Cost Report (MCR) Work/Sheet (W/S) A crosswalk.

The Department is willing to consider appropriate amendments to its regulations to bring operating procedures into alignment with our regulations; however, more discussion with APCA is needed prior to initiating the regulations project.

Method for Setting PPS Rates for "New Start" FQHCs

APCA expressed concerns regarding the lack of clear guidance on the method for setting PPS rates for "New Start" FQHCs. The Department discussed this topic at length with APCA in our January 4 meeting and the Department committed to providing a written proposal of next steps on this item.

In advance of a written proposal, the Department proposed a workgroup session to include the consultants from the state and from APCA to continue discussions on the "New Start" FQHCs. It is anticipated this workgroup will cover items that include but are not limited to:

1. Discussion of rate options for FQHCs currently enrolled in Alaska Medicaid for "New Start" FQHCs.
2. Discussion of rate options for FQHCs enrolling in Alaska Medicaid in the future for "New Start" FQHCs.

3. Enrollment history of FQHCs in Alaska Medicaid showing the year each FQHC enrolled in Alaska Medicaid.
4. Review of the map of FQHCs around Alaska to determine any potential regional groupings.
5. Review of Medicaid utilization of FQHCs around Alaska to discuss any potential case load groupings.
6. Review of existing APM rates to determine if there is a correlation between caseload size/regional location on cost-based rates.

The Department is working with APCA on scheduling this work group.

Medicaid Reimbursement Rate Issues – Dual Eligible Beneficiaries

APCA expressed concerns related to the reimbursement for Dual Eligible Beneficiaries. The Department believes that further discussion is needed to clarify this issue and will continue to work with APCA to address this question.

Our goal is to ensure patients and providers are supported by the Alaska Medicaid program. We hope this information is helpful, however we understand that these can be complicated issues with a combination of policy, regulatory, and operational facets to consider. Please do not hesitate to reach out with any additional follow up questions or discussions.

Sincerely,

Emily Ricci
Deputy Commissioner
Department of Health

cc: Renee Gayhart, Division Director, Division of Health Care Services
Marcey Bish, Executive Director, Office of Rate Review
Courtney Enright, Legislative Liaison, Department of Health