



OLTL Updates Consumer Subcommittee

May 24, 2023

Agenda

- OLTL Updates
 - Wheelchair/DME Repair Delays
 - Reduction Review Project
 - PHW Mailing Issue
- In Lieu of Services

OLTL Updates

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- **Wheelchair/DME Repair Delays**
 - OLTL is currently researching some specific cases
 - Early assessments appear that the major issue continues to be supply chain issues in the DME company's ability to get in parts.
 - OLTL will continue to monitor and have the MCOs work with providers to get the repairs completed
- **Reduction Review Project**
 - The team is still working on the resolution of the 8 cases and is in the process of reviewing an additional 60+ cases for AHC/KF
- **PHW Mailing Issue**
 - All known issues have been resolved by the MCO.

Overview of Centers for Medicare and Medicaid Services (CMS) In Lieu of Services (ILOS) Managed Care

Background of In Lieu of Services (ILOS)

ILOS are cost-effective and medically-appropriate services or settings substituted for a Medicaid covered service in managed care.

Current ILOS regulations can be found at 42 CFR § 438.3(e)(2)

- States must determine that the ILOS is a cost-effective and medically appropriate substitute for covered services or settings under the state plan.
- Enrollees cannot be required to use the ILOS.
- An approved ILOS must be authorized and identified in the managed care plan contract and must be offered to enrollees at the option of the managed care plan.

Overview of CMS Guidance on ILOS

- On January 7, 2021, CMS published a State Health Official (SHO) letter that described opportunities under Medicaid and the CHIP to better address social determinants of health (SDOH).
- On January 4, 2023, CMS issued additional guidance further clarifying the use of ILOS to address Health Related Social Needs (HRSN).
 - The guidance also introduces new requirements for new and existing ILOS that will require more documentation and reporting.
 - CMS introduced six principles are critical to the appropriate and efficient use of ILOSs

CMS Six Principles of ILOS

1. ILOSs must advance the objectives of the Medicaid program
 - Cannot violate federal rules, e.g., R&B
 - ILOSs limited to services approvable through the identified authorities- (Services are coverable via 1905(a) and 1915(c), (i), (k))

2. Are Cost Effective
 - Aggregate ILOS are below 5% of program capitation
 - Projected and Final Cost Percentages must be annually certified by actuary and will be reviewed by CMS as a component of the rate certification review process
 - If Cost Percentages are greater than 1.5%, must submit a description of the process used for determining the ILOS is cost-effective
 - Final Cost Percentage for CY 2024 rating period must be submitted with CY 2027 rate certification

CMS Six Principles of ILOS Cont'd

3. Are Medically Appropriate

Submit, at a minimum, the following information within the managed care contracts:

- The name and definition of each ILOS, and the covered Medicaid state plan services or settings for which they are substituted.
- Identify ILOS codes.
- Clinical definitions for target populations.
- For ILOS >1.5% of cap, clinical support for medical appropriateness.
- Contract language for consistent medical determinations for ILOS.

4. Must Preserve Enrollee Rights and Protections

- MCOs are prohibited from requiring enrollees to use ILOS.
- MCOs may not deny an enrollee a medically appropriate state-plan service/setting on basis that they have been offered ILOS.
- Enrollees have the right to file appeals/grievances regarding the denial or receipt of ILOS.

CMS Six Principles of ILOS Cont'd

5. Must be Subject to Appropriate Monitoring and Oversight

- At least annual analysis with appropriate quantitative and qualitative metrics.
- Documentation to demonstrate ILOS utilization, costs, and effectiveness.

6. Must be Subject to Retrospective Evaluation, when applicable

- Retrospective evaluation report Due within 24 months of the end of the contract period with ILOS for first 5 years

On April 27th, the CMS released Notice of Proposed Rulemaking: Medicaid and Children's Health Insurance Program Managed Care Access, Finance, and Quality

- Codify a framework for states to offer innovative services to address unmet needs and HRSNs and health equity through the provision of ILOSs

Questions?

