



# pennsylvania

## DEPARTMENT OF HUMAN SERVICES

**ISSUE DATE**

July 8, 2021

**EFFECTIVE DATE:**

August 16, 2021

**NUMBER:**

OMHSAS-21-06

**SUBJECT:**

Opioid Treatment Program Services for Dually Eligible Individuals

BY:

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**SCOPE:**

The bulletin applies to all providers of Opioid Treatment Programs (OTP) services. OTPs are enrolled in the Medical Assistance (MA) Program (referred to as Medicaid at the Federal level), as clinics (Provider Type 08) and as Mental Health/Substance Abuse Programs (Provider Type 11).

**PURPOSE:**

The purpose of this bulletin is to inform providers that because Medicare now covers OTP services and Medicaid is the payor of last resort, the MA Program will pay secondary to Medicare for OTP services provided on or after August 16, 2021, to dually eligible individuals.

**BACKGROUND:**

Historically, Medicare has covered office-based opioid treatment with buprenorphine and naltrexone but has not covered services furnished in OTPs. OTPs are authorized to use opioid agonist treatment medications to treat Opioid Use Disorder (OUD). Section 2005 of the *Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act*, known as the SUPPORT Act, established a new Medicare Part B benefit for OUD treatment services furnished by OTPs on or after January 1, 2020, including drugs approved by the Federal Drug Administration (FDA) for the treatment of opioid dependence, dispensing and administration of opioid agonist and antagonist treatment,

**COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:**

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toxicology testing, individual and group therapy, counseling, intake activities, and periodic assessments. Opioid agonist and antagonist treatment medications are drugs approved under section 505 of the Food, Drug, and Cosmetic Act (21 U.S.C. 355), and all biological products licensed under section 351 of the Public Health Service Act (42 U.S.C. 262) to treat opioid use disorders.” Currently, there are three drugs approved by the FDA for the treatment of opioid dependence, namely, methadone, buprenorphine, and naltrexone.

Medicare began payment for OTP services through bundled payments effective January 1, 2020. Because Medicaid is the payer of last resort, Medicare is now the primary payer for OTP services provided to dually eligible individuals. 42 U.S.C. § 1396a(a)(25); 55 Pa. Code 1101.64. As such, providers are to bill Medicare for OTP services provided to dually eligible individuals before billing the MA Program. Dually eligible individuals are beneficiaries who have both Medicare and Medicaid coverage.

The Social Security Act establishes the requirements regarding Medicaid payment for Medicare cost-sharing (co-insurance and deductibles) for Qualified Medicare beneficiaries (QMBs), one category of dually eligible individuals. 42 U.S.C. § 1396a(n). In accordance with this law, the MA Program will pay the difference between the Medicare paid amount up to the MA fee or rate, not to exceed the full Medicare cost-sharing amount. This may result in a zero paid amount by the MA Program. The Medicare paid amount plus the MA Program payment, less any applicable MA copayment, is considered payment in full. Providers may not balance bill QMBs for any Medicare cost-sharing amounts.

## **PROCEDURE:**

In order to receive MA payment for services provided to dually eligible individuals, OTP providers must be enrolled in Medicare.

Instructions to enroll in Medicare are contained in the *OTP Medicare Enrollment Fact Sheet* available at: <https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/Downloads/OTP-enrollment-factsheet-MLN6325432.pdf>.

42 C.F.R part 8 requires that OTPs be certified by the Substance Abuse and Mental Health Services Administration (SAMHSA) and accredited by an independent, SAMHSA-approved accrediting body. 28 Pa. Code Section 715.3 also requires that OTPs be licensed by the Department of Drug and Alcohol Programs. OTPs must also comply with all pertinent state laws and regulations and all regulations enforced by the Drug Enforcement Administration in order to obtain SAMHSA certification. 42 C.F.R. §§ 8.11(f)(1) and (6).

In recognition that some OTP providers are not yet enrolled in Medicare and are continuing to bill Medicaid for OTP services provided to dually eligible individuals, the Department of Human Services (Department) is providing advance notice to OTPs that the Department and the managed care organizations will deny claims for OTP services that are covered by Medicare provided on or after August 16, 2021, to dually eligible individuals. The Department expects that any OTP that is not yet enrolled as a Medicare provider will enroll in Medicare to avoid disruption of services provided to dually eligible beneficiaries. Before

submitting a claim for an OTP service, providers should check the PROMISe™ Eligibility Verification System to determine eligibility and confirm any third party coverage, including Medicare, using the procedures described in Provider Quick Tip # 11, accessible at: <https://www.dhs.pa.gov/providers/Quick-Tips/Documents/Qtip%2011.pdf>.

As indicated in the Centers for Medicare & Medicaid Services Informational Bulletin issued December 17, 2019, titled “*Guidance to State Medicaid Agencies on Dually Eligible Beneficiaries Receiving Medicare Opioid Treatment Services Effective January 1, 2020*”, newly Medicare-enrolled OTP providers can get a retrospective billing date for up to 30 days prior to the effective date of their Medicare enrollment. The Informational Bulletin can be referenced at this link: <https://www.medicaid.gov/federal-policy-guidance/downloads/cib121719.pdf>. Accordingly, in order to get paid for OTP services provided on or after August 16, 2021 to dually eligible individuals, providers will need to enroll in Medicare no later than September 14, 2021.