

From: Lunardi, Jeff (DMAS) <Jeff.Lunardi@dmass.virginia.gov>
Sent: Tuesday, August 13, 2024 6:47 AM
To: Roberts, Cheryl (DMAS) <Cheryl.Roberts@dmass.virginia.gov>
Subject: FW: Thank you and follow-up: Virginia technical assistance on tribal providers

We did not get a chance to discuss this element of the issue yesterday.

I spoke with Adrienne/Tammy/Sarah about this and we agreed to hold off until you were back to discuss and respond.

From: Lunardi, Jeff (DMAS)
Sent: Thursday, August 8, 2024 3:55 PM
To: Grano, Nancy (CMS/CMCS) <Nancy.Grano@cms.hhs.gov>
Cc: Marx, Kitty (CMS/CMCS) <kitty.marx@cms.hhs.gov>; Kosherzenko, Margaret (CMS/CMCS) <Margaret.Kosherzenko@cms.hhs.gov>
Subject: RE: Thank you and follow-up: Virginia technical assistance on tribal providers

Thank you so much Nancy.

Confirming receipt and we will work to identify dates/times and gather answers to the questions.

Jeff

From: Grano, Nancy (CMS/CMCS) <Nancy.Grano@cms.hhs.gov>
Sent: Thursday, August 8, 2024 9:45 AM
To: Lunardi, Jeff (DMAS) <Jeff.Lunardi@dmass.virginia.gov>
Cc: Marx, Kitty (CMS/CMCS) <kitty.marx@cms.hhs.gov>; Kosherzenko, Margaret (CMS/CMCS) <Margaret.Kosherzenko@cms.hhs.gov>
Subject: RE: Thank you and follow-up: Virginia technical assistance on tribal providers

Good morning, Jeff. Thank you for following up. We are still working with others in CMS on the questions and would like to ask a few clarifying questions to help us provide complete responses and information. We would like to set up a call as soon as possible, too. We will look for a time and date, and if you can let me know what dates/times would work best for you, we can work with that.

The following questions came up in discussions among the specialists in CMS:

1. What is the Medicaid provider type under which each of the two currently enrolled Tribal 638 facilities are enrolled? Clinic? FQHC? Other?
2. It would be helpful to understand the scope of the State's questions about personal care and chore services. Are the Tribal providers billing for the services, and if so, under what service definitions/codes? We found that (Personal care (Personal Assistance Services) and chore (as part of personal care or companion services) are found in three 1915(c) waiver programs in Virginia. Personal care is not included in the State plan and is only provided as part of EPSDT, apart from the HCBS waivers. Personal Assistance Services can be participant directed in the three HCBS waivers, so individuals could be included among qualified providers of the service. **Did the State provide technical assistance to the Tribal providers on how to bill for these services and if so, could the State share that guidance and/or consultation the State had with the Tribes on these services?**
3. Please let us know what managed care questions you have so that we can include specialists from the managed care group. It appears that managed care is only concurrent with one of the three HCBS waivers, Cardinal Care Plus. (Tribal health care facilities are not required to be in-network providers to provide and be reimbursed for Medicaid services.)

The Division of Tribal Affairs was able to confirm with IHS Nashville Area Office that both Tribes are authorized to provide HCBS, including personal care and chore services, in their 638 agreements. They have also elected to provide services to non-Natives and that is in their 638 agreements as well. Additionally, IHS Nashville Area does not receive data from the Tribes. They are on a different system, so IHS would not be able to provide data on Tribal beneficiaries. Perhaps the best option for the State would be to track this on the front end with the Medicaid application (Appendix B).

Regarding one of the State's questions, whether AI/AN individuals are "exempt from post-eligibility treatment of income" for HCBS waiver services, there is no Federal AI/AN exemption from PETI in section 1915(c) waivers. Medicaid and HCBS waiver eligibility and post-eligibility are complex subjects, so CMS subject matter experts can provide additional information for further questions.

Please let us know if you have any questions. Peggi and I will work on scheduling a call. Thank you.

Please consider the environment before printing this e-mail.

Nancy Grano, Health Insurance Specialist
CMS Native American Contact for IHS Bemidji and Nashville Areas

Medicaid and CHIP Operations Group (MCOG)
Division of Program Operations, South/ Centers for Medicare & Medicaid Services
JFK Federal Building, Boston, MA 02203
Office: (617) 565-1695 | FAX: (443) 380-5620 | 2275
Email: Nancy.Grano@cms.hhs.gov

Find Additional Information at:
<https://www.cms.gov/Outreach-and-Education/American-Indian-Alaska-Native/AIAN>

From: Lunardi, Jeff (DMAS) <Jeff.Lunardi@dmass.virginia.gov>
Sent: Tuesday, August 6, 2024 4:46 PM
To: Grano, Nancy (CMS/CMCS) <Nancy.Grano@cms.hhs.gov>
Cc: Kosherzenko, Margaret (CMS/CMCS) <Margaret.Kosherzenko@cms.hhs.gov>; Marx, Kitty (CMS/CMCS) <kitty.marx@cms.hhs.gov>; Richardson, Hope (DMAS) <Hope.Richardson@dmass.virginia.gov>; Hatton, Sarah (DMAS) <Sarah.Hatton@dmass.virginia.gov>; Whitlock, Tammy (DMAS) <tammy.whitlock@dmass.virginia.gov>; Roberts, Cheryl (DMAS) <Cheryl.Roberts@dmass.virginia.gov>
Subject: RE: Thank you and follow-up: Virginia technical assistance on tribal providers

Hi Nancy,

I just wanted to circle back with you on setting up a follow-up call and getting some guidance from the relevant CMS subject matter experts on the issues. Please let me know who to best work with on scheduling. If you're able to provide any guidance in advance of the call that would certainly be appreciated as well.

Thanks,
Jeff

From: Grano, Nancy (CMS/CMCS) <Nancy.Grano@cms.hhs.gov>
Sent: Tuesday, July 30, 2024 12:27 PM
To: Lunardi, Jeff (DMAS) <Jeff.Lunardi@dmass.virginia.gov>
Cc: Kosherzenko, Margaret (CMS/CMCS) <Margaret.Kosherzenko@cms.hhs.gov>; Marx, Kitty (CMS/CMCS) <kitty.marx@cms.hhs.gov>
Subject: RE: Thank you and follow-up: Virginia technical assistance on tribal providers

Thank you for the additional questions, Jeff. We will be sure to share them with all the subject matter experts and will look for a time for a follow up call.

Please consider the environment before printing this e-mail.

Nancy Grano, Health Insurance Specialist
CMS Native American Contact for I H S Bemidji and Nashville Areas
Medicaid and CHIP Operations Group (MCOG)
Division of Program Operations, South/ Centers for Medicare & Medicaid Services
JFK Federal Building, Boston, MA 02203
Office: (617) 565-1695 | FAX: (443) 380-5620 | 2275
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From: Lunardi, Jeff (DMAS) <Jeff.Lunardi@dmass.virginia.gov>
Sent: Tuesday, July 30, 2024 11:45 AM
To: Grano, Nancy (CMS/CMCS) <Nancy.Grano@cms.hhs.gov>
Cc: Kosherzenko, Margaret (CMS/CMCS) <Margaret.Kosherzenko@cms.hhs.gov>; Marx, Kitty (CMS/CMCS) <kitty.marx@cms.hhs.gov>; Richardson, Hope (DMAS) <Hope.Richardson@dmass.virginia.gov>; Hatton, Sarah (DMAS) <Sarah.Hatton@dmass.virginia.gov>; Whitlock, Tammy (DMAS) <tammy.whitlock@dmass.virginia.gov>; Roberts, Cheryl (DMAS) <Cheryl.Roberts@dmass.virginia.gov>
Subject: Thank you and follow-up: Virginia technical assistance on tribal providers

Nancy,

We're very grateful to you and the whole team who joined us on last week's call for the information and clarification you provided to support Virginia in ensuring that we are meeting all federal requirements as we work with our relatively new Tribal providers to establish their facilities and provide Medicaid reimbursable services.

The call was extremely helpful and answered a lot of our questions, but we do have some additional questions that we didn't have time to ask, as well as a couple of follow-up items.

1. CMS staff indicated that they would ask IHS area office whether they can provide DMAS with an active user file of individuals determined eligible for IHS services. We would be grateful if you could inquire and let us know if such a file is available. Thank you!
2. Can you confirm that a tribal facility may enroll as only one type of provider, either a "clinic services provider" or an FQHC, and their chosen provider type, in accordance with federal guidance and our state plan language specific to that provider type, determines what services may be provided outside the four walls (or "received through"), and what the applicable rules about reimbursement for services provided by and through the facility are? This is our read of Q&A #11 of the 2017 Tribal Reimbursement FAQ. (We understand that, in addition, the tribe can enroll as most any other provider type, such as a home health agency, but in those cases the provider [or the facility if payment assigned to the facility] would receive the applicable provider's Medicaid rate and not the FQHC/facility rate.)
3. Can you confirm that the scope of services that can be provided by a tribal FQHC outside the four walls and reimbursed by

Medicaid at the facility rate (in our case the AIR) would align with the state plan scope of services for other FQHCs in our state, unless otherwise specified in the tribal reimbursement section of our state plan? We are trying to understand 1915c waiver services in particular. If Virginia's FQHCs do not provide 1915c waiver services, then this would not be a facility service that the tribal FQHC could bill for at the facility rate (AIR)?

4. Does the state Medicaid agency have flexibility in whether to define what services are included in a single visit/encounter the same way for tribal FQHCs as for other FQHCs?
5. CMS stated that they would provide additional guidance around what is generally considered part of the all-inclusive rate for a visit. The example cited on the call was a member who presented to the clinic with a broken arm who required physician services, x-ray with interpretation by a radiologist, and pain meds. Would that be one visit at the all-inclusive rate or 4 visits/encounters?
6. DMAS has several programs that have additional licensure/certification requirements for providers seeking to provide services for individuals in those programs. Would the Tribal provider exceptions for state licensure set out in 25 USC § 1647a (2) and § 1621t apply to DMAS' additional provider requirements?
7. We understand that AI/AN members are exempt from cost-sharing such as co-pays and coinsurance. With respect to long term care services, are they exempt from having to meet the LTSS financial criteria? Specifically, are they exempt from post-eligibility treatment of income, i.e., patient pay towards the cost of 1915(c) HCBS long-term-care services?

In addition to the answers to these questions, which are largely clarifying things we've already discussed, we do have some additional questions around managed care requirements for tribal providers and members. Could we set up another call to discuss these?

Thank you again for your help on these.

Jeff

Jeff Lunardi

Chief Deputy Director

Department of Medical Assistance Services (DMAS)

600 East Broad Street Richmond, VA 23219

Jeff.Lunardi@dmass.virginia.gov

O: 804-786-2196

C: 804-229-1584

