



State of Rhode Island Medicaid Program Behavioral Health Provider Contingency Payments Policy Statement

Introduction

The State of Rhode Island Executive Office of Health and Human Services (EOHHS) has a longstanding commitment to ensuring access to high-quality, cost-effective health for Rhode Island's at-risk populations. Behavioral health (BH) providers serve some of the most vulnerable recipients of the Medicaid care delivery system. A BH provider for the purposes of this policy statement is an entity licensed by the Department of Behavioral Healthcare, Developmental Disabilities and Hospitals providing treatment to individuals with behavioral health care needs pursuant to Rhode Island General Laws (RIGL) § 40.1-24-1 et seq., RIGL § 40.1-8.5-1 et seq., and RIGL § 40.1-1-13.

In support of this system, EOHHS oversees timely payment of claims to BH providers to ensure compliance with the "prompt payment" requirements contained in section 5001(f)(2) of the American Recovery and Reinvestment Act of 2009, the Medicaid statute at section 1902(a)(37) of the Act and Federal Medicaid Regulations at 42 CFR 447.45(d), 42 CFR 447.46. EOHHS recognizes that under certain limited circumstances the state may need to make contingency payments to a BH provider to protect and maintain the viability of the provider and availability of the safety-net for individuals with behavioral health care issues in Rhode Island. The Center for Medicare and Medicaid Services (CMS) requires that providers are compensated in a timely manner for services provided to Medicaid members, either through one of Medicaid's contracted managed care organizations (MCOs) or the fee-for-service (FFS) health care delivery systems.

At this time, claims are generally processed within the above referenced prompt payment federal timelines, as well as within the state plan and managed care contract requirements. However, some BH providers have represented that issues related to billing and processing have jeopardized their cash position and access to critical services that the BH providers are responsible for delivering.

In furtherance of EOHHS' statutory mandates as contained in RIGL § 42-7.2-1 et seq. and recognizing the critical importance of preserving a BH safety-net for Rhode Islanders, EOHHS has provided contingency payments to BH providers when they have raised concerns with EOHHS regarding delayed, missing, or late payments that potentially jeopardize the BH provider's financial position. These advance cash payments have been made with the assumption that they will be subsequently satisfied and repaid through reconciliation.

Though historically repaid without issue, such payments present potential legal and financial exposure to the agency, as a result of making advance cash payments. Advance cash payments adversely impact the state's cash flow position and are considered an account receivable. This introduces the risk of default and a potential loss to the state if EOHHS is not able to recoup the cash advance payment. Material dollars, from contingency payments not recouped by fiscal year-end, must

be accrued, which increases the agency's risk of exposure when audited and increases EOHHS' financial risk. These advance cash payments further increase the number of manual payments that have been noted as concerns in prior audit findings against EOHHS, especially because such advance cash payments are non-claim specific—as they are not tied to specific Medicaid eligible individuals or services rendered and therefore require claims-level reconciliation.

As such, EOHHS intends moving forward to only make contingency payments based upon the proposed policy and procedure detailed below. The below policy and procedure will require a BH provider requesting an advanced cash payment to provide documentary evidence of need to support the BH provider's continued financial viability and operational functions while also addressing business practices and/or extenuating cause of the contingency payment request.

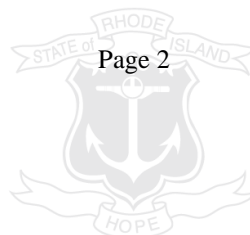
Policy Statement

The policy for BH contingency payments is as follows. Advance cash payments are an extraordinary remedy that shall only be granted through the discretion of the Medicaid Program Director based upon the totality of circumstances established through a series of factors presented through the following forms of documentation.

- A written request at least five business days before the contingency payment is needed
- Documentation of circumstances beyond the control of the BH provider, including the documented actions or failures of a third party
- Demonstration that other resources and assets have been depleted
- Financial statements and claims data
- Documentation supporting that the contingency payment is for solvency purposes
- Documents, such as audited financial statements, to serve as proof to the state that the BH provider can repay the contingency payment to the EOHHS
- A plan of correction to EOHHS to assure the state that processes and good business practices will be put in place by the provider to ensure the reduced likelihood of a request for a contingency payment in the future

If granted, EOHHS reserves the right to place limits on the total advance cash payments based on the size of the organization. Where multiple contingency payment requests have been made by a single provider within one fiscal year, EOHHS may require the provider to produce a plan of action to ensure continuity of care for Medicaid beneficiaries where long-term financial stability appears at risk. No contingency payments shall be issued without an executed promissory note including a detailed repayment schedule in accordance with the criteria established through procedures below.

The procedures associated with this policy are as follows:



- BH providers seeking a contingency payment must notify the EOHHS at least five business days before the payment is needed
- Contingency payment requests shall be submitted through a singular process with one point of contact at EOHHS.
- Contingency payments shall be signed off internally by the appropriate parties through the current buck sheet process
- EOHHS shall institute an internal accounting system to track the issuance and recoupment of contingency payments and calculate any additional costs incurred by EOHHS for the payment, such as inflationary rate calculations
- Mutually agreed upon recoupment plans, detailed in promissory notes, must ensure:
 - Recoupment of all contingency payments must be made by the State Fiscal Year (SFY) end. However, if such recoupment cannot be feasibly made prior to the close of the SFY, then recoupment shall be made within six months. Failure to adhere to a recoupment plan may lead to legal action
 - An EOHHS-set timeline for recoupment
 - Demonstration that claims expected to be in the FFS queue during the period of the recoupment plan are more than or equal to the amount of the contingency payment requested
 - Demonstration that all pending MCO claims submitted to the MCOs are more than or equal to the amount of the contingency payment requested

Conclusion

The policies outlined above recognize that commitment of EOHHS to ensure that Rhode Islanders on Medicaid receive the BH services they need. To this end, EOHHS is focused on ensuring that BH providers remain able to provide access to these critical services.

