



FROM: Maureen M. Corcoran, Director
To: Ohio Department of Medicaid Clearance Reviewers
SUBJECT: Targeted Case Management Rule (5160-48-01)

Attached for your review and comment is to be proposed Ohio Administrative Code (OAC) Rule 5160-48-01, entitled “**Targeted case management services provided to individuals with intellectual and developmental disabilities.**” This rule specifies the conditions for Medicaid payment of Targeted Case Management (TCM) services, which is comprised of those activities described in section 5126.15 of the Revised Code and in rule 5123-4-02 of the Administrative Code, but only to the extent as listed in paragraph (D) in rule 5160-48-01 as reimbursable activities for Medicaid eligible individuals with developmental disabilities.

Questions pertaining to this clearance should be sent to Rules@Medicaid.Ohio.gov.

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5160-48-01 ~~Medicaid coverage of targeted~~ Targeted case management services provided to individuals with intellectual and developmental disabilities.

(A) Purpose.

- (1) This rule specifies the conditions for medicaid payment of targeted case management (TCM), which is associated with activities described in section 5126.15 of the Revised Code and in rule 5123-4-02 of the Administrative Code, but only to the extent that they are listed in paragraph (D) of this rule as reimbursable activities for medicaid eligible individuals with developmental disabilities.
- (2) The department of developmental disabilities (DODD), through an interagency agreement with the department of medicaid (ODM), administers the TCM program on a daily basis in accordance with section 5162.35 of the Revised Code.

(B) Definitions.

- (1) "IEP" means an individualized education program and has the same meaning as described in rule 3301-51-07 of the Administrative Code.
- (2) "Institution" means a nursing facility, an intermediate care facility for individuals with intellectual disabilities (ICF/IID), a state-operated intermediate care facility for individuals with intellectual disabilities (ICF/IID) or a medical institution.
- (3) "ISP" means an individual service plan as defined in rule 5123-4-02 of the Administrative Code.
- (4) "Major unusual incident" (MUI) has the same meaning as defined in rule 5123-17-02 of the Administrative Code.
- (5) "Medical necessity" for the purposes of this rule medically necessary has the same meaning as medical necessity as defined in rule 5160-1-01 of the Administrative Code.
- (6) "Service and support administration" has the same meaning as described in section 5126.15 of the Revised Code.
- (7) "Targeted case management" means services which will assist individuals in gaining access to needed medical, social, educational and other services as described in this rule in accordance with section 1915(g) of the Social Security Act (42 U.S.C. 1396n(g)(2)) as effective October 1, ~~2021~~2023. Targeted case management is also referred to as medicaid case management.
- (8) "Unusual incident" has the same meaning as defined in rule 5123-17-02 of the Administrative Code.

(C) Eligible individuals.

- (1) Individuals eligible for medicaid coverage of TCM services are:
 - (a) Medicaid eligible individuals, regardless of age, who are enrolled on home and community-based service (HCBS) waivers administered by the DODD, and
 - (b) All other medicaid eligible individuals, age three or above, who are determined to have a developmental disability according to section 5126.01 of the Revised Code.

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(D) Reimbursable activities.

(1) Medicaid services listed in paragraph (D) of this rule are reimbursable only if provided to or on behalf of a medicaid eligible individual as defined in paragraph (C) of this rule and by qualified providers as defined in paragraph (E) of this rule. Payment for targeted case management services ~~may not~~will not duplicate payments made to public agencies or private entities under other program authorities for this same purpose. Medicaid reimbursable TCM services are:

(a) Assessment. Activities reimbursable under the assessment category are limited to the following:

- (i) Activities performed to make arrangements to obtain from therapists and appropriately qualified persons the initial and on-going assessments of an eligible individual's need for any medical, educational, social, and other services which includes technology and employment-related.
- (ii) Eligibility assessment activities that provide the basis for the recommendation of an eligible individual's need for HCBS waiver services administered by DODD.
- (iii) Activities related to recommending an eligible individual's initial and on-going need for services and associated costs for those individuals eligible for HCBS waiver services administered by DODD.

(b) Care planning. Activities reimbursable under the care planning category are limited to the following:

Activities related to ensuring the active participation of the eligible individual and working with the eligible individual and others to develop goals and identify a course of action to respond to the assessed needs of the eligible individual. These activities result in the development, monitoring, and on-going revision of an individualized service plan (ISP).

(c) Referral and linkage. Activities reimbursable under the referral and linkage category are limited to the following:

Activities that help link eligible individuals with medical, social, educational providers and/or other programs and services that ~~are capable of providing~~can provide needed services including technology and employment-related providers and technology and employment-related programs and services.

(d) Monitoring and follow-up. Activities reimbursable under the monitoring and follow-up category are limited to the following:

- (i) Activities and contacts that are necessary to ensure that the ISP is effectively implemented and adequately addresses the needs of the eligible individual.
- (ii) Reviewing the individual trends and patterns resulting from reports of investigations of unusual incidents and MUIs and integrating prevention plans into amendments of an ISP.
- (iii) Ensuring that services are provided in accordance with the ISP and ISP services are effectively coordinated through communication with service providers.
- (iv) Activities and contacts that are necessary to ensure that guardians and eligible individuals receive appropriate notification and communication related to unusual incidents and MUIs.

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(e) State hearings: Activities reimbursable under the state hearing category are limited to the following:

Activities performed to assist an eligible individual in preparing for a state hearing related to the reduction, ~~termination~~termination, or denial of a service on an ISP.

(2) Coverage exclusions.

(a) Activities performed on behalf of an eligible individual residing in an institution are not billable for medicaid TCM reimbursement except for the last one hundred eighty consecutive days of residence when the activities are related to moving the eligible individual from an institution to a non-institutional community setting.

(b) Emergency response systems as described in paragraph (G) of rule 5123-4-02 of the Administrative Code. This does not preclude those activities covered in paragraph (D)(1) of this rule when responding to an emergency and provided by a ~~certified or~~ registered service and support administrator.

(c) Conducting investigations of abuse, neglect, unusual incidents, or ~~major unusual incidents~~MUI.

(d) The provision of direct services (medical, educational, vocational, transportation, or social services) to which the eligible individual has been referred and with respect to the direct delivery of foster care services, including but not limited to those described in paragraph (A)(iii) of section 1915(g) of the Social Security Act (42 U.S.C. 1396n(g)(2)) as effective October 1, ~~2021~~2023.

(e) Services provided to individuals who have been determined to not have a developmental disability according to section 5126.01 of the Revised Code, except for individuals eligible for coverage of TCM services pursuant to paragraph (C)(1)(a) of this rule.

(f) Payment or coverage for establishing budgets for services outside of the scope of individual assessment and care planning.

(g) Activities related to the development, ~~monitoring~~monitoring, or implementation of an ~~individualized education program~~(IEP).

(h) Services provided to groups of individuals.

(i) Habilitation management.

(j) Eligibility determinations for county board of developmental disabilities (CBDD) services.

(E) Qualified providers.

Qualified providers of medicaid TCM services are CBsDD as established under Chapter 5126. of the Revised Code. Only those eligible activities as defined in this rule performed by CBsDD employees or CBsDD sub-contractors meeting the registration or certification standards contained in rule ~~5123:2-5-02~~5123-5-02 of the Administrative Code are eligible for payment.

(F) Documentation requirements.

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To receive medicaid reimbursement for TCM activities provided under this rule, documentation ~~must~~will include, but is not limited to, the following elements:

- (1) The date that the activity was provided, including the year;
 - (2) The name of the person for whom the activity was provided;
 - (3) A description of the activity provided and location of the activity delivery (may be in case notes or a coded system with a corresponding key);
 - (4) The duration in minutes or time in/time out of the activity provided. Duration in minutes is acceptable if the provider's schedule is maintained on file;
 - (5) The identification of the activity provider by signature or initials on each entry of service delivery. Each documentation recording sheet ~~must~~will contain a legend that indicates the service provider's name (typed or printed), title, signature, and initials to correspond with each entry's identifying signature or initials.
- (G) Reimbursement and claims submission.
- (1) Each CBDD ~~shall~~will maintain a current fee schedule of usual and customary charges. Records of fee schedules ~~must~~will be maintained for a period of six years. The CBDD ~~shall~~will bill DODD its usual and customary charge for a TCM covered service. TCM services will be reimbursed the lesser of the CBDD's usual and customary charge or the rate found in appendix DD to rule 5160-1-60 of the Administrative Code. Without regard to the rate of reimbursement that may be identified in appendix DD to rule 5160-1-60 of the Administrative Code, no provider of TCM ~~shall~~will receive reimbursement at a rate ~~in excess of~~more than the rate in the federally approved state plan amendment.
 - (2) Each CBDD is responsible for instituting collection efforts against third parties liable for the payment of TCM services as required by rule 5160-1-08 of the Administrative Code. The CBDD ~~must~~will maintain sufficient documentation to substantiate collection activities and any payments received. Sufficient documentation includes a written confirmation every twelve months from any known possible third party, if applicable, which states that the TCM service is not covered under that program or policy.
 - (3) If any of the TCM services provided by a CBDD are paid or attributable to another federal program, the costs of such services should be allocated in accordance with 2 CFR Part 200 as in effect on ~~September~~January 1, ~~2021~~2023.
 - (4) A CBDD ~~shall~~will not alter or adjust usual and customary rates charged to the medicaid program if such adjustments will result in a direct or indirect charge for costs of uncompensated care being charged to the medicaid program.
 - (5) A CBDD is required to submit claims to DODD within three hundred thirty days from the date of service in accordance with the format specified by DODD. Failure to submit claims within the specified three hundred thirty days may result in the CBDD not being reimbursed for such claims. The CBDD ~~shall~~will have no recourse to recover such non-reimbursed claims.

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- (6) Medicaid reimbursement for TCM services shall will constitute payment in full. Medicaid recipients ~~may not will not~~ be billed for medicaid covered services.
- (7) Payment for TCM services must will not duplicate payments made to CBDD under other programs.
- (8) To support the provision of providing TCM through fee for service, utilization review procedures will be incorporated to assure compliance with "42 C.F.R. Part 456" as in effect on October 1, ~~2021~~2023.
- (9) Records relating to TCM services shall will be made available to DODD, ODM, centers for medicare and medicaid services (CMS) or any of their representatives to verify actual units of service provided are in compliance with federal requirements and are adequately supported.
- (10) For the purpose of this rule, a unit of service is equivalent to fifteen minutes. Minutes of service provided to a specific eligible individual can be accrued over one calendar day. The number of units that may be billed during a day is equivalent to the total number of minutes of TCM provided during the day for a specific individual divided by fifteen plus one additional unit if the remaining number of minutes is eight or greater minutes.
- (11) Billable units of service are those tasks/contacts made with the eligible individual or on behalf of the eligible individual. Activities which are not performed on behalf of or are not specific to an eligible individual are not billable.
- (H) Reimbursement on and after January 1, 2022.
- (1) A CBDD shall will receive an interim rate as defined in the appendix DD to rule 5160-1-60 of the Administrative Code for each fifteen minute unit of providing TCM services to medicaid eligible individuals as defined in paragraph (C) of this rule.
- (2) A CBDD shall will be reimbursed for the actual incurred costs of providing TCM to eligible medicaid ~~beneficiaries~~recipients. Each CBDD must will certify its expenditures as eligible for federal financial participation ~~in order~~ to settle ~~to the~~ actual incurred costs for medicaid TCM.
- (3) Each CBDD shall will submit their actual incurred costs as described in paragraph (G) (1) of this rule on an annual cost report as established in section 5126.131 of the Revised Code.
- ~~(4) (4) Each CBDD shall receive an interim rate in the amount of fifteen dollars and forty eight cents per fifteen minute unit for providing TCM services to medicaid eligible individuals as defined in paragraph (C) of this rule.~~
- ~~(5) (4) DODD shall will~~ conduct a final settlement once all cost reports are received and audited. Payments shall will be paid to each provider in an amount based on the provider's reconciled costs for providing TCM services to medicaid eligible recipients less any amounts previously paid to the provider for proving TCM services under the state plan.
- ~~(6) (5) Reconciled costs shall will~~ be calculated by using a methodology approved by ~~the centers for medicare and medicaid.~~CMS
- (I) Record requests and retention.

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- (1) CBDD ~~shall~~will make available all records including but not limited to work papers, supporting reports, medical reports, progress notes, charges, journals, ledgers, computer tapes, computer disks, and fiscal reports for review by representatives from ODM, ODM's designee, CMS, or DODD at the discretion and request of these representatives.
- (2) Documentation will be retained for a period of six years from the date of receipt of final payment or until such time as a lawsuit or audit finding has been resolved, whichever is longer. The records ~~shall~~will be provided to ODM or its designee upon request in a timely manner. Records produced electronically ~~must~~will be produced at the provider's expense, in the format specific by state or federal authorities. A retrospective program review ~~shall~~will not be required on or after January 1, 2015.

(J) Monitoring, ~~compliance~~compliance, and sanctions.

- (1) DODD ~~shall~~will conduct periodic monitoring and compliance reviews related to TCM as authorized by the Revised Code. Reviews may consist of, but are not limited to, physical inspections of records and sites where services are provided, interviews of providers, recipients, and administrators. Qualified providers as defined in paragraph (E) of this rule, in accordance with the medicaid provider agreement and DODD, ~~shall~~will furnish to DODD, ODM, CMS, and the medicaid fraud control unit or their designees any records related to the administration and/or provision of TCM services.
- (2) ODM will monitor the activities of DODD, as necessary, to ensure that funding applicable to the TCM program is used for authorized purposes in compliance with laws, regulations, and the provisions of the interagency agreement.
- (3) In the event a fiscal review reveals that an overpayment has been made, and/or there is a disallowance of medicaid payments, the amount of the overpayment and/or disallowance ~~shall~~will be recovered from the CBDD.

(K) Due process.

- (1) Medicaid eligible individuals whose TCM services either affect the provision of services or whose TCM services are affected by any decision may appeal that decision at a state hearing pursuant to division 5101:6 of the Administrative Code. CBDDs ~~must~~will provide notice to the individual of their right to request a state hearing pursuant to Chapter 5101:6-2 of the Administrative Code.
- (2) If an eligible individual requests a hearing, as specified in Chapters 5101:6-1 to 5101:6-9 of the Administrative Code, the participation of DODD, and/or ODM and the CBDD is required during the hearing proceedings to justify the decision under appeal.
- (3) All rules related to due process ~~shall~~will be interpreted in a manner consistent with section 1.11 of the Revised Code, which requires that they be liberally construed in order to promote their objective and assist the individual in obtaining justice. All rules relating to the right to a hearing and limitations on that right ~~shall~~will be interpreted in favor of the right to a hearing.

(L) Nonfederal share.

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A CBDD is responsible for payment of the nonfederal share of medicaid expenditures in accordance with sections 5126.0510 and 5126.0511 of the Revised Code. A CBDD ~~shall~~will provide this nonfederal share prior to the CBDD receiving payment.