

Preventing Medicaid Improper Payments for Personal Care Services

Medicaid personal care services (PCS) are valuable, and the need for them is growing.[1] Medicaid improper payments for PCS are a major concern. Improper payments include any payments “made for treatments or services that were not covered by program rules, that were not medically necessary, or that were billed for but never provided,”[2] and the law mandates their recoupment.[3, 4]

Medicaid Personal Care Services

Medicaid PCS are services provided to eligible beneficiaries according to a State’s approved plan, waiver, or demonstration in the beneficiary’s home or at other locations.[5] PCS are optional Medicaid services, except when they are medically necessary for children eligible for early and periodic screening, diagnostic, and treatment services.[6] PCS are categorized as a range of human assistance provided to persons with disabilities and chronic conditions to enable them to accomplish activities of daily living or instrumental activities of daily living. An independent or agency-based personal care attendant (PCA) may provide these services. Medicaid PCS are different from home health aide services provided through the Medicaid or Medicare home health benefit. However, home health aides may perform PCS[7, 8] in the course of their duties and may report it with a higher-paying code.[9] PCS providers should contact their State Medicaid agency (SMA) for additional information.

Improper Payments for Personal Care Services

Audits of State Medicaid programs identified five common types of improper PCS payments. They are payments for:

- Claims without supporting documentation;
- Services not eligible under State Medicaid policy;



- Services provided without required supervision;
- Services provided without State verification of PCA qualifications;[10] and
- Care provided while a beneficiary was in an institution[11] (not including payments made to a PCA to retain services or during a period the individual is receiving covered respite care).[12]

Another reason for improper payments in State Medicaid programs involves fraud, waste, and abuse. PCS fraud may subject a provider to State and Federal civil, monetary, and criminal penalties, and exclusion[13, 14] from participation in Federal health care programs like Medicaid.

Providers can avoid the consequences of overpayments through preventive strategies, including:

- Learning and understanding agency and applicable State Medicaid plan and waiver rules;
- Requiring mandatory attendance at State-offered trainings and reading State-provided educational materials; and
- Contacting the State for guidance when Federal and State rules are not well understood.

Reporting Fraud, Waste, and Abuse

All parties involved in providing, authorizing, and supervising PCS are responsible for protecting the quality and integrity of the Medicaid program. Report any acts of fraud to your State Medicaid Fraud Control Unit (MFCU) or SMA. To find any State's contact information for the MFCU or SMA, visit https://www.cms.gov/Medicare-Medicaid-Coordination/Fraud-Prevention/FraudAbuseforConsumers/Report_Fraud_and_Suspected_Fraud.html on the Centers for Medicare & Medicaid Services (CMS) website. You may also contact the U.S. Department of Health and Human Services, Office of Inspector General (HHS-OIG) by email at HHSTips@oig.hhs.gov or by telephone at 1-800-HHS-TIPS (1-800-447-8477); TTY: 1-800-377-4950.

Resources

To see the electronic version of this fact sheet and the other products included in the "Personal Care Services" Toolkit posted to the Medicaid Program Integrity Education page, visit <https://www.cms.gov/Medicare-Medicaid-Coordination/Fraud-Prevention/Medicaid-Integrity-Education/edmic-landing.html> on the CMS website.

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References

- 1 Paraprofessional Healthcare Institute. State Data Center. United States: Employment Projections. Retrieved June 2, 2016, from <http://phinational.org/policy/states/united-states/>
- 2 U.S. Government Accountability Office. (2012, June). National Medicaid Audit Program. CMS Should Improve Reporting and Focus on Audit Collaboration With States. (Highlights, left side, para. 1; p. 1, note 2). Retrieved June 2, 2016, from <http://www.gao.gov/assets/600/591601.pdf>
- 3 Improper Payments Elimination and Recovery Act of 2010, Pub. L. No. 111-204, 124 Stat. 2224. (2010, July 22). Retrieved June 2, 2016, from <https://www.gpo.gov/fdsys/pkg/PLAW-111publ204/pdf/PLAW-111publ204.pdf>
- 4 Improper Payments Elimination and Recovery Improvement Act of 2012, Pub. L. No. 112-248, 126 Stat. 2390. (2013, January 10). Retrieved June 2, 2016, from <https://www.gpo.gov/fdsys/pkg/PLAW-112publ248/pdf/PLAW-112publ248.pdf>
- 5 Personal Care Services, 42 C.F.R. § 440.167. Retrieved June 2, 2016, from http://www.ecfr.gov/cgi-bin/text-idx?SID=d7253d99ae044c11de6d8752d4097c43&mc=true&node=se42.4.440_1167&rgn=div8
- 6 Social Security Act § 1905(r)(5). Retrieved June 2, 2016, from https://www.ssa.gov/OP_Home/ssact/title19/1905.htm
- 7 Definitions, 42 C.F.R. § 441.505. Retrieved June 2, 2016, from http://www.ecfr.gov/cgi-bin/text-idx?SID=8d77e279ff6bde4ea0dc3aa4988000d2&mc=true&node=se42.4.441_1505&rgn=div8
- 8 U.S. Department of Health and Human Services. Office of Inspector General. (2006, December). States' Requirements for Medicaid-Funded Personal Care Service Attendants (p. 2). Retrieved June 2, 2016, from <https://oig.hhs.gov/oei/reports/oei-07-05-00250.pdf>
- 9 HIPAASpace. (n.d.). HCPCS 2015 Code: T1019. Retrieved June 2, 2016, from http://www.hipaaspace.com/Medical_Billing/Coding/Healthcare.Common.Procedure.Coding.System/T1019
- 10 U.S. Department of Health and Human Services. Office of Inspector General. (2011, June 7). Spotlight On... Medicaid Personal Care Services. Retrieved June 2, 2016, from https://oig.hhs.gov/newsroom/news-releases/2011/personal_care_services.asp
- 11 Social Security Act § 1905(a)(24). Retrieved June 2, 2016, from https://www.ssa.gov/OP_Home/ssact/title19/1905.htm
- 12 U.S. Department of Health and Human Services. Office of Inspector General. (2012, November). Personal Care Services: Trends, Vulnerabilities, and Recommendations for Improvement (p. i). Retrieved June 2, 2016, from <https://oig.hhs.gov/reports-and-publications/portfolio/portfolio-12-12-01.pdf>
- 13 U.S. Department of Health and Human Services. Office of Inspector General. A Roadmap for New Physicians: Avoiding Medicare and Medicaid Fraud and Abuse. Retrieved June 2, 2016, from https://oig.hhs.gov/compliance/physician-education/roadmap_web_version.pdf
- 14 U.S. Department of Health and Human Services. Office of Inspector General. HEAT Provider Compliance Training: Federal Health Care Fraud and Abuse Laws. Retrieved June 2, 2016, from <https://oig.hhs.gov/compliance/provider-compliance-training/files/HandoutLegalCitations508.pdf>

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