

<b>CMS Manual System</b>	<b>Department of Health &amp; Human Services (DHHS)</b>
<b>Pub 100-02 Medicare Benefit Policy</b>	<b>Centers for Medicare &amp; Medicaid Services (CMS)</b>
<b>Transmittal 114</b>	<b>Date: October 30, 2009</b>
	<b>Change Request 6686</b>

**NOTE: CR 6686, Transmittal 114 originally communicated as Sensitive/Controversial on October 30, 2009 is being re-issued as no longer Sensitive. The transmittal number, issue date and all other information remain the same.**

**SUBJECT: Outpatient Mental Health Treatment Limitation**

**I. SUMMARY OF CHANGES:** Section 102 of the Medicare Improvements for Patients and Providers Act (MIPPA) of 2008 amends section 1833(c) of the Social Security Act (the Act) to phase in a 5-year reduction to the payment that Medicare patients are required to make for outpatient mental health services that are subject to the outpatient mental health treatment limitation (the limitation). Payment for outpatient mental health services will gradually reduce from 2010-2014. Effective January 1, 2014, the limitation will no longer exist and Medicare will pay outpatient mental health services at the same level as other Part B services. Hence, the limitation will change as follows: 2009 and prior years=62.5 percent; 2010-2011=68.75 percent; 2012=75 percent; 2013=81.25 percent; and, 2014 and onward=100 percent.

**NEW / REVISED MATERIAL**

**EFFECTIVE DATE:** \*January 1, 2010

**IMPLEMENTATION DATE:** January 4, 2010

*Disclaimer for manual changes only: The revision date and transmittal number apply only to red italicized material. Any other material was previously published and remains unchanged. However, if this revision contains a table of contents, you will receive the new/revised information only, and not the entire table of contents.*

**II. CHANGES IN MANUAL INSTRUCTIONS:** (N/A if manual is not updated)

R=REVISED, N=NEW, D=DELETED-*Only One Per Row.*

R/N/D	Chapter / Section / Subsection / Title
R	13/Table of Contents
R	13/100.6/Outpatient Mental Health Treatment Limitation for CP Services
R	13/110.5/Outpatient Mental Health Treatment Limitation for CSW Services

**III. FUNDING:**

**SECTION A:** For Fiscal Intermediaries and Carriers:

No additional funding will be provided by CMS; Contractor activities are to be carried out within their operating budgets.

**SECTION B: For Medicare Administrative Contractors (MACs):**

The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

**IV. ATTACHMENTS:**

**Business Requirements  
Manual Instruction**

*\*Unless otherwise specified, the effective date is the date of service.*

# Attachment - Business Requirements

Pub. 100-02	Transmittal: 114	Date: October 30, 2009	Change Request: 6686
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**SUBJECT: Outpatient Mental Health Treatment Limitation**

**EFFECTIVE DATE:** January 1, 2010

**IMPLEMENTATION DATE:** January 4, 2010

## I. GENERAL INFORMATION

**A. Background:** Section 102 of the Medicare Improvements for Patients and Providers Act (MIPPA) of 2008 amends section 1833(c) of the Social Security Act (the Act) to phase out the outpatient mental health treatment limitation (the limitation) over a 5-year period, from 2010-2014. The limitation has resulted in Medicare paying 50% of the approved amount for outpatient mental health treatment rather than the 80% that is paid for most other services. With the exception of Rural Health Clinics (RHCs) and Federally Qualified Health Centers (FQHCs), when this MIPPA provision is fully implemented effective January 1, 2014, Medicare will pay outpatient mental health services at the same rate as other Part B services, that is, at 80% of the physician fee schedule. Also, when this MIPPA provision is fully implemented, RHCs and FQHCs will be paid at 80% of their encounter rate subject to the applicable upper payment limit.

**B. Policy:** Section 102 of MIPPA requires that the current 62.5% outpatient mental health treatment limitation (under which Medicare pays 50% of the approved amount and the patient pays 50%) will be reduced as follows: **2010-2011**=68.75% - Medicare pays 55% and the patient pays 45%; **2012**=75% - Medicare pays 60% and the patient pays 40%; **2013**=81.25% - Medicare pays 65% and the patient pays 35%; and, **2014 and onward**=100% - Medicare pays 80% and the patient pays 20%. For RHCs and FQHCs, the amount the patient owes may differ from the percentages listed above if the charges are not equal to the encounter rate. The type of bill (TOB) for RHCs is 71x. For FQHCs, the TOB is 73x for all dates of service (DOS) before April 1, 2010, and, 77x, for all DOS on or after April 1, 2010.

## II. BUSINESS REQUIREMENTS TABLE

*Use "Shall" to denote a mandatory requirement*

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A / B M A C	D M M A C	F I I E R	C A R I E R	R H H I	Shared-System Maintainers				OTH ER
						F I S S	M C S	V M S	C W F		
6686.1	Contractors shall change the outpatient mental health treatment limitation (the limitation) for claims with dates of service on or after January 1, 2010, through December	X		X	X		X	X		X	

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A / B  M A C	D M E  M A C	F I  M I E R	C A R R I E R	R H H I  S S	Shared-System Maintainers				OTH ER
						F I S S	M C S	V M S	C W F		
	31, 2011, to 68.75%.										
6686.1.1	For claims with dates of service on or after January 1, 2010, through December 31, 2011, that are subject to the limitation, contractors shall return the new Medicare Summary Notice message 16.61: "Outpatient mental health services are paid at 55% of the approved amount".  <b><u>Spanish Version: Por los servicios psiquiátricos ambulatorios se paga el 55% de la cantidad aprobada.</u></b>	X		X	X		X	X			
6686.2	Contractors shall change the limitation for claims with dates of service on or after January 1, 2012, through December 31, 2012, to 75%.	X		X	X		X	X		X	
6686.2.1	For claims with dates of service on or after January 1, 2012, through December 31, 2012, that are subject to the limitation, contractors shall return the new Medicare Summary Notice message 16.62: "Outpatient mental health services are paid at 60% of the approved amount".  <b><u>Spanish Version: Por los servicios psiquiátricos ambulatorios se paga el 60% de la cantidad aprobada.</u></b>	X		X	X		X	X			
6686.3	Contractors shall change the limitation for claims with dates of service on or after January 1, 2013, through December 31, 2013, to 81.25%.	X		X	X		X	X		X	
6686.3.1	For claims with dates of service on or after January 1, 2013, through December 31, 2013, that are subject to the limitation, contractors shall return the new Medicare Summary Notice message 16.63: "Outpatient mental health services are paid at 65% of the approved amount".  <b><u>Spanish Version: Por los servicios psiquiátricos ambulatorios se paga el 65% de la cantidad aprobada.</u></b>	X		X	X		X	X			
6686.4	Contractors shall eliminate the limitation for claims with dates of service on or after January 1, 2014.	X		X	X		X	X		X	
6686.5	For claims with dates of service on or after January 1, 2010, through December 31, 2013, contractors shall continue to return the Claim Adjustment Reason Code(s) and Remittance Advice Remark Code(s) for claims subject to the limitation that they currently use.	X		X	X		X	X			
6686.6	Contractors shall not apply the limitation to TOB 75x. CPT code 96152 is the only CPT code allowed for behavioral health services provided in a CORF and it is not subject to the limitation.	X		X	X		X			X	

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A / B	D M E	F I	C A R R I E R	R H I	Shared-System Maintainers				OTH ER
		M A C	M A C				F I S S	M C S	V M S	C W F	
6686.7	The Part B Shared Systems shall send the updated reduced psychiatric amount in the Psychiatric Charge Field found in MSPPAY for MSP claims. The Part A Shared System shall continue to send the appropriate amounts like it always has to MSPPAY for MSP psychiatric services.	X		X	X		X			X	

### III. PROVIDER EDUCATION TABLE

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A / B	D M E	F I	C A R R I E R	R H I	Shared-System Maintainers				OTH ER
		M A C	M A C				F I S S	M C S	V M S	C W F	
6686.8	A provider education article related to this instruction will be available at <a href="http://www.cms.hhs.gov/MLNMattersArticles/">http://www.cms.hhs.gov/MLNMattersArticles/</a> shortly after the CR is released. You will receive notification of the article release via the established "MLN Matters" listserv. Contractors shall post this article, or a direct link to this article, on their Web site and include information about it in a listserv message within one week of the availability of the provider education article. In addition, the provider education article shall be included in your next regularly scheduled bulletin. Contractors are free to supplement MLN Matters articles with localized information that would benefit their provider community in billing and administering the Medicare program correctly.	X		X	X						

### IV. SUPPORTING INFORMATION

**Section A: For any recommendations and supporting information associated with listed requirements, use the box below:**

*Use "Should" to denote a recommendation.*

<b>X-Ref Requirement Number</b>	<b>Recommendations or other supporting information:</b>

**Section B: For all other recommendations and supporting information, use this space:**

**V. CONTACTS**

**Pre-Implementation Contact(s):** Regina Walker-Wren at [Regina.Walkerwren@cms.hhs.gov](mailto:Regina.Walkerwren@cms.hhs.gov) for Payment Policy; Gertrude Saunders at [Gertrude.Saunders@cms.hhs.gov](mailto:Gertrude.Saunders@cms.hhs.gov) for Part A Claims Processing; Leslie Trazzi at [Leslie.Trazzi@cms.hhs.gov](mailto:Leslie.Trazzi@cms.hhs.gov) for Part B Claims Processing; and, Richard Mazur at [Richard.Mazur2@cms.hhs.gov](mailto:Richard.Mazur2@cms.hhs.gov) for MSP issues.

**Post-Implementation Contact(s):** Regional Offices

**VI. FUNDING**

**Section A: For *Fiscal Intermediaries (FIs)*, *Regional Home Health Intermediaries (RHHIs)*, and/or *Carriers*, use only one of the following statements:**

No additional funding will be provided by CMS; contractor activities are to be carried out within their operating budgets.

**Section B: For *Medicare Administrative Contractors (MACs)*, include the following statement:**

The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

# Medicare Benefit Policy Manual

## Chapter 13 - Rural Health Clinic (RHC) and Federally Qualified Health Center (FQHC) Services

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*(Rev.114, 10-30-09)*

100.6 - Outpatient Mental Health *Treatment* Limitation for CP Services

110.5 - Outpatient Mental Health *Treatment* Limitation *for CSW Services*

### **100.6 - Outpatient Mental Health *Treatment* Limitation for CP Services (Rev. 114, Issued: 10-30-09, Effective: 01-01-10, Implementation: 01-04-10)**

*Most covered services* furnished by qualified CPs *for the treatment of mental, psychoneurotic, and personality disorders are subject to the outpatient mental health treatment limitation (the limitation) in Section §1833 of the Act. Certain diagnostic services are not subject to the limitation. For detailed information on the application of the limitation please see the Medicare General Information, Eligibility, and Entitlement Manual, Publication 100-01, chapter 3, section 30 and the Medicare Claims Processing Manual, Publication 100-04, chapter 9, section 60.*

### **110.5 - Outpatient Mental Health *Treatment* Limitation *for CSW Services* (Rev. 114, Issued: 10-30-09, Effective: 01-01-10, Implementation: 01-04-10)**

*Most covered services* furnished by qualified CSWs *for the treatment of mental, psychoneurotic, and personality disorders are subject to the outpatient mental health treatment limitation (the limitation) in Section §1833 of the Act. Certain diagnostic services are not subject to the limitation. For detailed information on the application of the limitation please see the Medicare General Information, Eligibility, and Entitlement Manual, Publication 100-01, chapter 3, section 30 and the Medicare Claims Processing Manual, Publication 100-04, chapter 9, section 60.*