



MEDICARE-MEDICAID COORDINATION OFFICE

DATE: March 28, 2018

TO: Medicare-Medicaid Plans

FROM: Lindsay P. Barnette
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SUBJECT: Clarification to Guidance on Medicare-Medicaid Plan (MMP) Application of Deductibles and Cost-Sharing when Reimbursing Non-Contract Providers

The purpose of this memorandum is to clarify policy regarding Medicare-Medicaid Plans' (MMPs') reimbursement of non-network providers for Medicare-covered services during what would have been a deductible period under fee-for-service Medicare. We are reissuing this memorandum originally dated December 5, 2017 in response to questions received from MMPs regarding how they should pay claims incurred at the beginning of a benefit period. In particular, we are providing additional clarification that MMPs may be responsible for Medicaid-covered cost-sharing as well.

In determining payments due to non-contract providers, MMPs should not apply Medicare Part A or Part B deductibles. This is consistent with Medicare Advantage policy: when a Medicare Advantage (MA) plan authorizes services from a non-contract provider, the plan must reimburse the non-contract provider the amount the provider would have received under Original Medicare payment rules, less any plan-allowed cost sharing the non-contract provider collects directly from the enrollee. MA plans may not require members to pay non-contract providers any amounts other than MA plan cost-sharing amounts for authorized services (see Medicare Managed Care Manual Chapter 6, Section 100). An MA plan whose enrollee cost sharing does not include a deductible cannot impose a Medicare Part A or B deductible on the enrollee for services obtained from a non-contracted provider.

The same analysis applies to MMPs. For MMPs, member cost-sharing for all Part A and B services is \$0 and the benefit has no deductible. Therefore, MMPs should not impose a deductible for covered services provided by a non-contract provider. Instead, for approved services provided by non-contract providers, MMPs should pay the appropriate Original Medicare payment amount under the terms of their three-way contract as well as any Medicaid-covered cost-sharing under the terms of the Medicaid State Plan.

Example: An MMP member's first MMP-covered service of the benefit year is an approved non-contracted ambulance service. Had the member been enrolled in fee-for-service Medicare and

the Medicaid State Plan, the member's Part B deductible would have been covered under the rules of the Medicaid State Plan. The MMP, however, does not have a deductible and may not limit the non-contracted provider's payment to the amount payable under the Medicaid State Plan. Instead, if the fee-for-service Original Medicare payment amount is \$1,000, the MMP would pay 80 percent (\$800) to the provider to meet the MMP's Medicare obligations. The MMP would also pay whatever amount is required under the Medicaid State Plan for coverage of cost-sharing for this service, which could range from \$0 to \$200, to meet the MMP's Medicaid obligations. No deductible is applied.

The three-way contract provisions governing reimbursement of non-contracted providers for Medicare services adopt Medicare Advantage policies, which are established in 42 C.F.R § 422.214. More details on determining appropriate payment amounts are provided in the Medicare Advantage Payment Guide for Out of Network Payments, available at <https://www.cms.gov/Medicare/Health-Plans/MedicareAdvtgSpecRateStats/Downloads/OONPayments.pdf>.

If you have any questions about the contents of this memorandum, please contact the Medicare-Medicaid Coordination Office at MMCOCapsModel@cms.hhs.gov.