

Comments and Responses on ARC 3165C  
Medicaid cost containment – Site of Service rules  
Received July 25, 2017

The following person(s)/organization(s) provided written comments, the summary of which are included below:

1. Shelly Chandler, Executive Director, Iowa Association of Community Providers
2. Cindy Kaestner, LISW, Consultant, Abbe Health
3. Dan Strellner, President, Abbe Health
4. Kathy Johnson, Executive Director, Abbe Mental Health Center
5. Thomas Eachus, Executive Director, Unity Point Health Black Hawk Grundy Mental Health Center
6. Kyle Henderson, Chairperson, Board of Directors, Unity Point Health Black Hawk Grundy Mental Health Center
7. Christina Schark, Executive Director, Southern Iowa Mental Health Center
8. Kathleen Horan, Vice President, Abbe Health Aging Services
9. Phil Wasta, Executive Director, MedQuarter Regional Medical District
10. John Bryant, Board Member, Community Mental Health Center
11. Dean Einck, Citizen
12. Flora Schmidt, Executive Director, Iowa Behavioral Health Association
13. Brian Scott, Board Member, Abbe Health
14. Ted Townsend, President and CEO, Unity Point Cedar Rapids
15. Dan Mineck, Board Members, Abbe Health
16. Stephen Trefz, Director, Special Projects, Abbe Mental Health Center
17. Mike Tiernan, Citizen

The Department received comments from a total of 17 respondents. All, with one exception were from Community Mental Health Centers (CMHCs), staff from CMHCs, and Associations representing CMHCs and various practitioners who practice/work at CMHCs. The only non-CMHC-affiliated comment received was from the father of a 27 year-old man who has been a patient at one of the main CMHC commenters, which did not specify any particular proposed rule provision or requested change thereto, but instead, only spoke generally about the potential impact the Site of Service (SoS) rule change could have on already scarce psychiatric services in the state. Generally speaking, the comments from the respondents all identified the same issues and concerns related to this proposed rule change. Based on public comments received, the department will not change the proposed rules at this time.

Comment 1: “New administrative rule 441 IAC 79.1(7)”b” specifies that the Department of Human Services intends to apply a ‘site of service” (SoS) differential to physician services. The respondent asked the Department to clarify that this is being applied to physician services only and not to services provided by mid-level practitioners, such as physician assistants (PAs) and advanced registered nurse practitioners (ARNPs).”

Department response 1: To the extent 441—79.1(7) is limited to “physicians”, the proposed new rule under 79.1(7)”b” would also be limited to physicians and would not be applied to mid-level practitioners, such as PAs and/or ARNPs. The only exceptions to that would be the following:

- a) Since PAs are not able to bill and be paid directly for services under Iowa Medicaid, any services rendered by PAs would be billed under their supervising/employing physician or clinic. Therefore, to the extent a PA service rendered in a facility setting is billed by the supervising/employing physician or clinic, and since the physician or clinic would be a “physician” provider type, such services would be subject to the SoS differential.
- b) The only circumstance where services rendered by an ARNP in a facility setting would be subject to the SoS reduction, would be if the ARNP was not otherwise separately enrolled (i.e., as an ARNP provider type) and such services were billed by the ARNP’s employing physician or clinic. Under both federal and state law/regs, ARNPs are able to enroll and bill as independent practitioners, so most ARNPs do so and bill under their own provider number. Where that’s the case, the ARNP would not be subject to the SoS reductions for services rendered in a facility setting.

Comment 2: The Department is referencing place of service codes in this rule that match Medicare’s list of ‘facilities’. We are concerned about the inclusion of POS Code 53 – Community Mental Health Center (CMHC). Under Medicare definitions, Iowa CHMCs are not considered facilities, do not use POS 53 as the billing code for Medicare, are not subject to Medicare

Department response 2: CMHC’s billing for services under the CMHC provider category will not have payments cut back for the SoS differential in cases where the service is provided at place of service 53 (CMHC). In these cases, under Medicaid, there is no separate facility bill to account for the overhead, and therefore no SoS differential will be applied, consistent with the intent of the policy.

Comment 3: For Iowa Medicaid, accredited CMHCs do use code 53 in box 24 of the CMS - 1500 claim form. We are concerned that with Iowa’s adoption of the Medicare facilities list, CMHCs here will be subject to a site of service differential for Medicaid purposes that they **are not** for Medicare. Should this be the case, Iowa CMHCs will experience reductions in payments that do not occur with Medicare that will result in reduction to access of psychiatric services which are already in short supply in Iowa. We request that POS Code 53 – CMHC be removed from Iowa Medicaid’s facilities list for the purpose of applying site of service differentials and that Iowa CMHCs be treated by Medicaid as they are by Medicare for the purpose of this policy change.

Department response 3: CMHC’s billing for services under the CMHC provider category will not have payments cut back for the SoS differential in cases where the service is provided at place of service 53 (CMHC). In these cases, under Medicaid, there is no separate facility bill to account for the overhead, and therefore no SoS differential will be applied, consistent with the intent of the policy. Please refer to Department response 2.

Comment 4: For the entities that are defined as “facilities” under Medicare, there are methods for them to recoup some of the Site of Service Differential as bad debt through cost reporting. Iowa’s Community Mental Health Centers are not defined as a “facility” by Medicare and do not have this option. Therefore, they will be put at an extreme financial disadvantage should the Site of Service Differential be applied. This will only serve to further limit timely access to mental health services for Iowa’s Medicaid population.

Department response 4: Please refer to Department responses 2 and 3.

Comment 5: The Place of Service (POS) code list in this rule is the same as the Medicare list of “facilities”. POS 53 is for community mental health center (CMHC). According to Medicare definitions, Iowa CMHCs are not considered a facility (*unless the CMHC is hospital-based, or meets a different set of criteria that Iowa requires*), and do not use POS 53 as the POS billing code for Medicare and are not subject to the SoS differential under Medicare. Our CMHC is not eligible to bill a “facility” fee and a professional fee, as is the case with Medicare defined facilities. For Iowa Medicaid, POS 53 is used in box 24b on the CMS-1500 claim form for CMHCs that are accredited and established by Iowa Code definitions for CMHCs.

Department response 5: Please refer to Department responses 2 and 3.

Comment 6: Based on experience with Medicare and SoS codes for telehealth, CMHC providers have experienced a 25-30% rate reduction for these services. Should POS 53 become subject to the SoS differential, Iowa CMHCs could experience a significant reduction in payment for services, thus resulting in reducing staff psychiatry time and reduction of access to psychiatric services, which are already in short supply in Iowa. Please remove POS 53 (CMHC) from the list of facility codes for the purposes of applying the SoS differential.

Department response 6: Please refer to Department responses 2 and 3.

Comment 7: Information on proposed rule 441 IAC 79.1(7)“b” indicates that the intent was to decrease rates for physicians that provide services in a “facility”, as defined as a (facility) place of service (POS) by Medicare. Community Mental Health Centers (CMHCs) are defined under Medicare as a “group practice”, not a facility (unless the CMHC meets a different set of criteria than Iowa requires). The respondent’s CMHC does not use POS 53 when they bill Medicare. The respondent does not bill a separate facility fee and is not subject to the SoS differential payment under Medicare. Under Iowa Medicaid, CMHCs are categorized as a POS 53 (different that under Medicare). The respondent believes that the POS 53 (CMHC) should not be included as a site-of-service that is subject to the decreased physician rates under Iowa Medicaid rules. The respondent’s CMHC does not have the ability to charge additional fees as a Medicare defined “facility” would.

Department response 7: Please refer to Department responses 2 and 3.

Comment 8: The respondent believes there would be serious unintended consequences to penalizing CMHCs by making them subject to the proposed SoS rule. CMHCs already serve a high percentage of individuals on Medicaid. With the tremendous need to have outpatient mental health services available to individuals in our communities, this SoS differential for CMHCs would drastically reduce the availability of psychiatric services. Availability of outpatient mental health care (through CMHCs) is essential in keeping individuals out of higher cost services, such as the emergency room or inpatient care settings.

Department response 8: Please see Department responses 2 and 3.

Comment 9: The respondent is concerned that this proposed rule is an unintended consequence of using the Medicare list of facilities to include Community Mental Health Centers (POS 53). According to Medicare definitions, Iowa Community Mental Health Centers are not considered a facility (unless you are a hospital based CMHC or meet a different set of criteria than Iowa requires), do not use 53 as the POS billing code for Medicare and are not subject to the SoS differential. The respondent is not eligible to bill a "facility" fee and a professional fee as is the case with Medicare defined facilities. For Iowa Medicaid, code 53 is used in box 24b of the CMS-1500 claim for Community Mental Health Center's that are accredited and established by Iowa Code definitions for CMHC's (Chapter 24).

Department response 9: Please refer to Department responses 2 and 3.

Comment 10: For entities that are "facilities" under Medicare/ there is a method for them to recoup some of this rate through a cost report reconciliation process. Iowa Community Mental Health Center's do not have that option as we are not a "facility" as defined by Medicare. By using this facility list from Medicare, Iowa Community Mental Health Centers are put in a category that does not apply and for which the rule should not apply.

Department response 10: Please refer to Department responses 2 and 3.

Comment 11: Based on the respondent's experience with Medicare and the SoS code telehealth, providers have experienced a 25-30% rate reduction for these services. Should SoS code 53 become a SoS differential, Iowa's Community Mental Health Centers could experience a significant reduction in payment for these services, thus resulting in our having to reduce staff and reduce access to psychiatric services, which are already a critical shortage area in Iowa.

Department response 11: Please refer to Department responses 2 and 3.

Comment 12: The respondent's organization has worked diligently to "expand" access to psychiatric services via telehealth in response to the growing demand for these services. The

proposed rule would severely limit our ability to provide this crucial service resulting in longer waiting lists for psychiatric services with negative consequences to clients and their families, not to mention a likely increased reliance upon hospital emergency departments and mental health units, the most costly services in our system of care.

Department response 12: Place of Service (POS) code 02 is defined as, “the location where health services and health related services are provided or received, through a telecommunication system”. POS code 02 is used to report that a billed service was furnished as a telehealth service from a distant site. The only portion that is considered telehealth services is when the patient was present and interacting with the distant site physician or practitioner. An originating site is the location of a Medicaid member at the time the telehealth service is furnished. Originating sites can include: physician offices, hospitals, critical access hospitals (CAHs), rural health clinics, federally qualified health centers, hospital-based or CAH-based renal dialysis centers, skilled nursing facilities, and community mental health centers. The “telehealth” POS code (i.e., “02”) would not be used by an originating site that can bill a facility fee, instead the originating site would continue to use the POS code that applies to the type of facility where the patient is located.

Beyond the foregoing, it is noted that Iowa Medicaid does not reimburse telehealth services in the same way as Medicare. In fact, Iowa Medicaid does not allow separate or additional payment for the various telehealth “technical” component type services. Instead, Iowa Medicaid reimburses telehealth services the same as if the service was rendered in a face-to-face setting. Iowa Medicaid policy regarding telehealth is addressed in 441 Iowa Administrative Code 78.55(249A), which provides as follows:

**441—78.55(249A) Services rendered via telehealth.** An in-person contact between a health care professional and a patient is not required as a prerequisite for payment for otherwise-covered services appropriately provided through telehealth in accordance with generally accepted health care practices and standards prevailing in the applicable professional community at the time the services are provided, as well as being in accordance with provisions under rule 653—13.11(147,148,272C). Health care services provided through in-person consultations or through telehealth shall be treated as equivalent services for the purposes of reimbursement.

This rule is intended to implement Iowa Code section 249A.4 and 2015 Iowa Acts, Senate File 505, division V, section 12(23).

[ARC 2166C, IAB 9/30/15, effective 11/4/15]

It is important to emphasize that CMHCs billing for services under the CMHC provider category will not have payments cut back for the SoS differential, in cases where the service is provided at place of service 02 (telehealth). In these cases, under Medicaid, there is no separate facility bill to account for the overhead, and therefore no SoS cut would be taken, consistent with the intent of this policy.

Comment 13: One of the site of service codes referenced in the informational letter for this rule is 02 Telehealth. Telehealth services at community mental health centers are provided by either employees or contract staff. Those services are billed by the CMHC (which is the same as a physician office), with the CMHC tax ID, as part of the CMHC services, thus the CMHC incurs all cost associated with delivery of the physician services.

They are not billed as a separate physician practice. Reduction in reimbursement for telehealth services at CMHCs will likely result in the reduction of providing telehealth service. This will reduce access for patients, primarily in rural areas. The result will be longer wait times for patients to see an on-site psychiatrist, which are in short supply, if telehealth services are reduced due to this cost containment strategy. Please do not require CMHCs to use 02 Telehealth as a Site of Service.

Department response 13: Please refer to Department response 12. In addition, it is noted that there will be no reduction in reimbursement for services rendered via telehealth, since they are already paid at the same reimbursement rate as if the service was rendered face-to-face.

Comment 14: Community Mental Health Centers have begun to use Telehealth services out of necessity to keeping up with the demand for outpatient psychiatry over the past 2 years. The cost of providing telehealth services is higher than having an on-site provider. If CMHC's are required to use a POS 02 for telehealth services in their outpatient setting, and be subject to the rate reduction under this cost containment measure, it will make telehealth services unaffordable for us to provide. Since telehealth is used in mostly rural areas, it may eliminate the ability to see a Medication Provider close to home. If this is implemented, we will be forced to reduce our telehealth services, reducing capacity for individuals to receive care in the most cost effective setting, and will likely result in increased use of emergency rooms. When providing telehealth services, the CMHC pays for the provider and all the costs associated with the service. The CMHC "owns" the service. I understand that independent telehealth providers should be reimbursed less if they were "owning" the service, but that is not the case for CMHC's in Iowa. This could be clarified by NOT requiring CMHC's to use the POS 02 for their telehealth services.

Department response 14: Please refer to Department responses 12 and 13.

Comment 15: The cost containment strategy that the respondent is most concerned with is the "Site of Service" differential payment, which would reduce Medicaid payments for physician services provided in a "facility setting." While Community Mental Health Centers are not considered "facilities" by Medicare they have been included in our State's list of facilities that will receive reduced Medicaid payments for physician services. Mental Health Centers are not allowed to recoup this reduction in payment by charging a facility fee, however. POS code 53 Community Mental Health Center (CMHC) According to Medicare definitions Iowa CMHCs are not considered a facility and do not use 53 as the POS billing code for Medicare and are not subject to the SoS Differential. Since Iowa CMHCs are not a facility with Medicare they do not bill a facility fee. It appears as though CMHCs should not appear on this list. Should these rules be implemented and the SoS differential be imposed CMHCs could experience a significant reduction in payment for services which in turn could result in reducing psychiatry time which in turn reduces access to psychiatric services which are already in short supply in Iowa particularly in rural Iowa. Please remove 53 Community Mental Health Center from this list of facility site codes for the purpose of applying site of service differential.

Department response 15: Please refer to Department responses 2 and 3.