PerformCARE®
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Provider Notice

To: **HealthChoices Substance Abuse Outpatient Providers**

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Date: **September 4, 2012**

Subject: **SA OP 12 103 Compliance Reminders – Documentation and Delivery Substance Abuse Outpatient, Methadone and Suboxone Services**

This notice supersedes SA OP 10 100 Compliance Reminders – Documentation and Delivery Substance Abuse Outpatient Services. This communication includes discussion of appropriate activities that may occur as part of Substance Abuse Outpatient Services and incorporates information about methadone and Suboxone service delivery.

Through audits, PerformCare has identified that some programs have included inappropriate activities including watching movies with no relevance to substance abuse and even taking Members off site for activities such as bowling. In these instances money has been recouped and other action has been taken as appropriate.

This communication serves as a reminder to all Substance Abuse Providers, that each agency must be familiar with the Title 55 Public Welfare Code (DPW), Chapter 1223 regulations (Outpatient Drug and Alcohol Clinic Services), Chapter 1101 regulations (General Provisions), and applicable Medical Assistance bulletins, as well as Title 28 Health and Safety Code (DOH), Chapters 157, and applicable 709 and 715 subchapters when billing Medicaid for services delivered to our Members.

Any service that is provided for which a claim is submitted to PerformCare MUST be a medical service and related to the Members treatment plan. Recreational activities are not compensable and claims should not be submitted for time spent in such activities. In addition, Providers are reminded of the points below.

Clock Time
Chapter 1101.51(e) Record keeping requirements and onsite access states: "Providers shall retain, for at least 4 years, unless otherwise specified in the provider regulations, medical and fiscal records that fully disclose the nature and extent of the services rendered to MA recipients and that meet the criteria established in this section and additional requirements established in the provider regulations." Further, MA Bulletin 99-97-06 states "Providers who have units of service defined as time specific periods must document in the patient's record, the clock time spent providing the service (i.e. 7:15 a.m. to 8:15 a.m.)." This means that all billable activities must be recorded in the

medical chart to include the actual clock time spent providing the service (i.e. 7:15 am to 8:15 am). You may also reference PerformCare Memo AD 10 006 regarding Billable Reportable Time and OMAP Bulletin 99-97-06 Effective 9-17-97 regarding "Accurate Billing for Units of Service Based on Periods of Time."

Persons Involved in the Session
Chapter 1101.51(e) Record keeping requirements and onsite access states as quoted above that Providers shall fully disclose the nature and extent of the services rendered to MA Recipients." PerformCare expects that all individuals involved in the session must be listed in the progress note. This includes Members as well as representatives from any other involved systems that may be attending the session. Even partial attendance by an interested party must be documented in the progress note.

Encounter Forms or Documentation of Encounters
MA Bulletin 99-89-05 with subject "Signature Requirements and Encounter Forms" issued May 26, 1989 states that "The Department's policy has always been that medical assistance invoices must have either the recipient's signature or the words "signature exception" appearing in the signature field. The signature certifies that the recipient received a medical service or item and that the recipient listed on the Medical Services Eligibility Card is the individual who received the service. Providers who bill via continuous print forms (pin-fed), diskette, or the tape-to-tape billing mode must retain patients' signatures on file using an encounter form." The Bulletin further states that the following may sign his or her own name on behalf of the recipient: 1) a parent 2) a legal guardian 3) a relative 4) a friend. Note that **provider or employee of a provider does not qualify as a recipient's agent**.

There are some situations in which the provider is not required to obtain the recipient's signature. Those situations are:

1. When billing for inpatient hospital, short procedure unit, nursing home, or emergency room services provided by an independent physician.
2. When billing for services which are paid in part by another third party, such as Medicare or Blue Cross.
3. When billing for services provided to a recipient who is unable to sign because of a physical condition such as palsy.
4. When billing for services provided to a recipient who is physically absent such as laboratory services or performing case management services.

Situations which do not require the recipient's signature also do not require encounter forms. Please see the Bulletin for more information.

Limitations to the number of participants in Group Psychotherapy Sessions
Chapter 1223.2 Substance Abuse Outpatient regulations defines Group Psychotherapy as "Psychotherapy provided to no less than two (2) and no more than ten (10) persons with diagnosed drug/alcohol abuse or dependence problems for a minimum of 1 hour."

Substance Abuse Intensive Outpatient (SA IOP) is driven by a service description so in the event of conflict, the service description rules. If the approved service description does not indicate the number of Members allowed to be in a group session, Chapter 1223.2 limit of 10 persons with diagnosed drug/alcohol abuse or dependence problems will stand.

In lieu of specific rules related to substance abuse partial hospitalization (SA PH), PerformCare uses the PCPC definitions. The PCPC for SA PH limits the number of participants in group therapy provided in a SA PH program to a maximum of 12 Members.

Treatment Plans
55 PA Code Chapter 1223.14 (16), states that payment will not be made for "Services provided within or beyond the 15th calendar day following intake, without the clinic's supervisory physician's review and approval of the patient's level of care assessment, psychosocial evaluation, treatment plan and determination of the patient's diagnosis as specified in § 1223.52(a)(6)(i)."

Subsequently Chapter 1223.52(a)(6)(i- iii) which outlines payment conditions states that "With the exception of methadone maintenance clinic services, a drug and alcohol addictions professional shall perform a level of care assessment for each patient prior to admission to the clinic and the provision of services" and '(i) Within 15 days following intake, the clinic's supervisory physician shall review and verify each patient's level of care assessment, psychosocial evaluation and initial treatment plan prior to the provision of any treatment beyond the 15th day following intake. The clinic's supervisory physician shall verify the patient's diagnosis. The clinic's supervisory physician shall sign and date the patient's level of care assessment, psychosocial evaluation, treatment plan and diagnosis in the patient's record. Payment will not be made for services provided within or beyond the 15th day following intake, without the clinic's supervisory physician's review and approval of the level of care assessment, psychosocial evaluation, treatment plan and determination of the patient's diagnosis. (ii) Sixty days following the date of the initial treatment plan and at the end of every 60-day period during the duration of treatment, the clinic's supervisory physician shall review and update each patient's treatment plan. Each review and update shall be dated, documented and signed in the patient's record by the clinic's supervisory physician. (iii) The treatment plan and updates shall be based upon the psychosocial evaluation and diagnoses. Treatment shall be provided in accordance with the treatment plan and updates and under the supervision and direction of the clinic's supervisory physician. Clinic supervisory physician reviews and reevaluations of diagnoses, treatment plans and updates shall be done in the clinic."

Methadone Programs
Methadone clinics must provide a **minimum** of 2.5 hours per month as part of the treatment for the first 2 years. PerformCare considers methadone to be a comprehensive service that includes required outpatient therapy services. PerformCare has historically taken the position that if more therapy is needed, and the methadone provider cannot meet the Member's needs, a different provider can request an authorization for additional outpatient treatment for this Member. Unfortunately, record reviews have indicated that there has been significant misapplication of this position and has begun receiving claims for outpatient services from methadone providers. This is considered to be a duplicate service.

PerformCare has a process to review and approve individual requests if additional substance abuse outpatient therapy from another provider is medically necessary. The SA OP Provider will complete the adjunct outpatient form and submit it to PerformCare for approval prior to rendering service. In such a case, an authorization will be issued and claims submitted must include the authorization number.

Methadone providers have also asked to bill for days a Member is absent from treatment or misses

a dose. This is not permissible. Additionally, absence from a methadone program is a significant risk that must be reported to the Clinical Care Manager.

Suboxone

The Federal Drug Abuse Treatment Act of 2000 (DATA 2000) permits qualified physicians to obtain a waiver from the separate registration requirements of the Narcotic Addict Treatment Act to treat opioid addiction with Schedule III, IV, and V opioid medications or combinations of such medications that have been specifically approved by the Food and Drug Administration (FDA) for that indication. Such medications may be prescribed and dispensed.

In order to qualify for a waiver under DATA 2000, physicians must hold a current State medical license, a valid DEA registration number, and must meet one or more of the following conditions:

- The physician holds a subspecialty board certification in addiction psychiatry from the American Board of Medical Specialties.
- The physician holds an addiction certification from the American Society of Addiction Medicine.
- The physician holds a subspecialty board certification in addiction medicine from the American Osteopathic Association.
- The physician has completed not less than eight hours of training with respect to the treatment and management of opioid-addicted patients. This training can be provided through classroom situations, seminars at professional society meetings, electronic communications, or otherwise. The training must be sponsored by one of five organizations authorized in the DATA 2000 legislation to sponsor such training, or by any other organization that the Secretary of the Department of Health and Human Services (the Secretary) determines to be appropriate.
- The physician has participated as an investigator in one or more clinical trials leading to the approval of a narcotic drug in Schedule III, IV, or V for maintenance or detoxification treatment, as demonstrated by a statement submitted to the Secretary by the sponsor of such approved drug.
- The physician has other training or experience, considered by the State medical licensing board (of the State in which the physician will provide maintenance or detoxification treatment) to demonstrate the ability of the physician to treat and manage opioid-addicted patients.
- The physician has other training or experience the Secretary considers demonstrates the ability of the physician to treat and manage opioid-addicted patients.

In addition, physicians must attest that they have the capacity to refer addiction treatment patients for appropriate counseling and other non-pharmacologic therapies, and that they will not have more than 30 patients on such addiction treatment at any one time unless, not sooner than 1 year after the date on which the practitioner submitted the initial notification, the practitioner submits a second notification to the Secretary of the need and intent of the practitioner to treat up to 100 patients. 100 patients is the maximum permitted.

Effective treatment of drug addiction requires comprehensive attention to all of an individual's medical and psychosocial co-morbidities. Pharmacological therapy alone rarely achieves long-term success. Thus Suboxone® and Subutex® treatment should be combined with concurrent behavioral therapies and with the provision of needed social services. This point is of such importance that physicians must attest to their capacity to refer patients for counseling when they

submit their Notification of Intent to SAMHSA to begin prescribing Suboxone® and Subutex®.

Many different types of behavioral therapies (e.g., Motivational Enhancement Therapy, self-help programs) have been used successfully for substance abuse disorders. The SAMHSA Treatment Improvement Protocol (TIP) series (http://www.treatment.org/Externals/tips.html) includes a number of documents that contain best practice guidelines for the provision of interventions and therapies for individuals with substance abuse disorders.[i] CBHNP expects that services are delivered in accordance with TIP and will include behavioral therapy. See also DOH 715 Standards for Approval of Narcotic Treatment Programs which sets minimum standards for concurrent psychotherapy in a narcotics treatment program.

A Medical Assistance enrolled provider may NOT accept cash from any MA recipient for this service. Such incidents will be reported to the Bureau of Program Integrity and the Office of Medical Assistance Programs immediately.

Compliance Requirements

All Providers must have quality, effective compliance protocols to assure they are meeting all required applicable laws relative to programs as well as Medical Assistance billing. Failure to comply may require PerformCare to recoup payment for services. Providers are strongly advised to regularly review operations against regulatory requirements outlined in documents identified above as well as others that are relevant to services provided. One of the best resources is Office of Medical Assistance Bulletin Number 99-02-13, issued on December 2, 2002 titled "The Bureau of Program Integrity and the Medical Assistance Provider Self-Audit Protocol." Additional information about the Provider Self-Audit Protocol and all Medical Assistance Bulletins applicable to Program Integrity can be found on the Department of Public Welfare's (DPW) website at the following link:

http://www.dpw.state.pa.us/learnaboutdpw/fraudandabuse/medicalassistanceproviderselfauditprotocol/index.htm

It is very important to keep in mind that policy decisions that come out of licensing do not necessarily translate to an ability to bill Medical Assistance funds. Licensing rules are separate from Medical Assistance payment rules, thus it is very important to be aware of provisions in the Pennsylvania Medical Assistance Manual Chapter 1101 and Chapter 1150 as well as specific chapters according to services you provide. All violations, including those that may have occurred prior to this revised notice must be reported to PerformCare. Any self-report should include return of funds as appropriate.

We hope you find this information helpful.

[i] http://buprenorphine.samhsa.gov/about.html