

MEMORANDUM



JOINT BUDGET COMMITTEE

TO Members of the Joint Budget Committee
FROM Robin J. Smart, JBC Staff (303-866-4955)
DATE November 18, 2021
SUBJECT Medicaid Provider Rate Review Schedule

Pursuant to Section 25.5-4-401.5, the Department of Health Care Policy and Financing must review Medicaid provider rates based on a schedule that allows for the review of each provider rate at least every five years. The Medicaid Provider Rate Review Advisory Committee (MPRRAC) or the Joint Budget Committee (JBC), by majority vote, may direct the Department to conduct a review of a provider rate not scheduled for review during a given year, or to include an exempted rate in the review. If the JBC requests a rate review, it must notify the Department of the out-of-cycle rate review by December 1st.

REVIEW PROCESS

The Department's periodic rate reviews are conducted with input from the MPRRAC and are intended to inform the Governor's annual budget request and the General Assembly's deliberations concerning Department appropriations. The Department may exempt rates from review because the rates are adjusted periodically based on costs, adjusted periodically based on another state or federal law or regulation, or are payments unrelated to a specific service rate. As part of the review, the Department must:

- Compare Medicaid rates to available benchmarks
- Use metrics to assess whether payments are sufficient to allow provider retention and client access and to support appropriate reimbursement of high-value services

Rate adjustments are not guaranteed in the year a rate is reviewed, as any rate adjustments are dependent upon available State resources. The Department is required to work with the Office of State Planning and Budgeting to determine achievable goals and Executive Branch priorities within the statewide budget. Through the annual budget process the Department can ask for adjustments to rates that were reviewed in prior years. The Department just completed Year 1 of the Second Five Year Review Cycle, including:

- Emergency Medical Transportation (EMT)
- Non-Emergent Medical Transportation (NEMT)
- Home and Community-Based Services (HCBS) Waivers
- Targeted Case Management (TCM)

The Department submitted the Medicaid Provider Rate Review Recommendation Report to the JBC on June 15, 2021. The report contains analyses, rate comparisons, and sufficiency assessments for the sets of services identified above. Recommendations are summarized in the report submitted November 9, 2021. The Recommendation Report can be found here: [Rate Review Reports | Colorado Department of Health Care Policy & Financing](#)

MEDICAID PROVIDER RATE REVIEW ADVISORY COMMITTEE

The MPRRAC is a statutorily created advisory committee responsible for assisting the Department in the review of Medicaid provider rate reimbursements. It meets at least once every quarter and consists

of 24 members, 6 of whom are appointed by each of the following: the President of Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives. Each member of the MPRRAC serves a four-year term and may be reappointed. The MPRRAC website indicates that there are currently seven vacancies.

CONCERNS AND JBC STAFF RECOMMENDATIONS

Issues related to two rates were brought to the attention of JBC members during the 2021 interim, including:

- Outpatient rates for physical, occupational, and speech therapy, and
- Outpatient hospital specialty drugs.

OUTPATIENT RATES FOR PT, OT, AND ST

ISSUE: There is a significant different between Outpatient Occupational, Physical, and Speech Therapy (OT, PT, ST) rates and eligibility requirements for the same services if billed under Home Health. Services are provided by professionals with the same credentials, but not necessarily for the same purpose. In the case of Outpatient early intervention services provided to children under the age of three years of age, the purpose is to support parents and children in progress improvement related to developmental milestones. In terms of Home Health services, the purpose it to reduce the need for hospitalization. When rate reviews are performed on OT, PT, and ST services, a comparison is not done between the Outpatient and Home Health categories creating rate disparities within the same professional service.

IMPACT ON MEMBER: Without eligibility requirements for referral to Home Health services that are as rigorous as those for early intervention (Outpatient) services, a child may be funneled to an inappropriate model of care. This may occur because Home Health is also allowed to see children who are non-medical even though the purpose is to keep children from returning to the hospital. Because early intervention services are strictly non-medical, children are provided the opportunity to make the appropriate developmental progress. Lower rates for Outpatient services result in a reduction in provider capacity and present access to care challenges.

IMPACT ON PROVIDER: Lower provider rates for Outpatient OT, PT, and ST services impact provider capacity in several ways: 1) providers may elect to accept fewer Medicaid clients or may refuse to accept Medicaid at all; 2) providers electing to carry a high Medicaid client caseload may not have other means through which to offset the losses related to low Medicaid rates; 3) providers are unable to offer competitive salaries; 4) providers may close their doors; and 5) therapists may choose to work for a Home Health agency because higher rates allow them to pay higher salaries. Ultimately, it will result in a shift away from Outpatient services that are targeted toward developmental milestones and toward Home Health services.

The department has submitted a budget request to increase the rates for Outpatient ST services, however, the rates will remain much lower than Home Health ST services. For each of these services, Home Health rates have a Medicare comparison, while Outpatient PT, OT, and ST services may not. Outpatient PT, OT, and ST rates should, however, be compared with Home Health rates to ensure that the current disparity in PT, OT, and ST rates is addressed.

JBC STAFF RECOMMENDATION: JBC staff recommends that the JBC direct the Department to conduct a comparison review of the PT, OT, and ST provider rates in the Outpatient and Home Health categories in its next review in order to identify and address the existing rate disparities.

OUTPATIENT HOSPITAL SPECIALTY DRUGS

ISSUE: The Department's reimbursement policy for hospitals for outpatient hospital specialty drugs (sometimes referred to as "high-cost drugs") is 72 percent of the invoiced cost of purchase. The Department estimates that after combining fee for service, managed care, and estimated supplemental payments, providers have absorbed, on average, approximately \$899,000 annually in costs for these drugs. Presently, this only encompasses a single provider. Reducing health care costs is a priority and the Department has asked hospitals to negotiate lower invoiced costs of these drugs, however, pharmaceutical companies are only willing to negotiate to a certain degree. In the end, drug prices are outside of the control of the hospitals. The Department has exempted the high-cost drug rates from the MPRRAC review process in the past.

IMPACT ON MEMBER: The impact of this rate on members is minimal because the hospital will administer the drug when necessary, however, lost hospital revenue will impact the hospital's ability to provide other services to other patients. There is no member co-pay for these drugs.

IMPACT ON PROVIDER: This reimbursement rate is based on an expectation that the provider will absorb the difference; however when the cost of the drugs may run as high as \$2.1 million per patient per dose, the lost revenue impacts the hospital's capacity to deliver other services.

JBC STAFF RECOMMENDATION: JBC staff recommends that the JBC direct the Department to conduct a review of the reimbursement rates for outpatient hospital specialty drugs in its next review.

SUMMARY OF DEPARTMENT RECOMMENDATIONS (2020)

The Department provided the table on the following pages to identify the rates that have been reviewed in the past and the action taken by General Assembly in response to Department budget requests. In Year One of Cycle Two (2020) of the rate review process, the following rates were analyzed:

- **EMERGENCY MEDICAL TRANSPORTATION (EMT) SERVICES:** Analyses suggest that EMT payments at 40.92 percent of the benchmark were sufficient to allow for member access and provider retention; however, current rates may not support appropriate reimbursement for high-value services. **The Department recommends a rate increase for EMT services to bring them to 80 percent of the benchmark.**
- **NON-EMERGENCY MEDICAL TRANSPORTATION (NEMT) SERVICES:** Analyses suggest NEMT payments at 37.51 percent of the benchmark were sufficient to allow for member access and provider retention; however, current rates may not support appropriate reimbursement for high-value services. **The Department recommends a rate increase for NEMT services to bring them to 80 percent of the benchmark.**
- **ADULT HCBS WAIVERS:** Analyses are inconclusive to determine if Adult HCBS waiver payments allow for member access and provider retention for the following waivers:
 - Brain Injury (BI) payments at 98.12-164.44 percent of the benchmark;

- Developmental Disabilities (DD) payments at 72.91-151.36 percent of the benchmark;
- Supported Living Services Waiver (SLS) payments at 52.82-131.95 percent of the benchmark;
- Spinal Cord Injury (SCI) payments at 81.12-95.24 percent of the benchmark;
- Community Mental Health Supports Waiver (CMHS) payments at 46.65-112.93 percent of the benchmark;
- Elderly, Blind, and Disabled Waiver (EBD) payments at 79.48-113.20 percent of the benchmark. Children’s Extensive Support Waiver (CES) payments at 68.19-211.19 percent of the benchmark;
- Children’s Habilitative Residential Program Waiver (CHRP) payments at 67.97-306.81 percent of the benchmark;
- Children’s Home and Community Based Services Waiver (CHCBS) payments at 34.37-143.64 percent of the benchmark;
- Children with Life Limiting Illness (CLLI) waiver payments at 58.42-286.04 percent of the benchmark;
- Aggregate HCBS Waiver payments at 97.7 percent of the benchmark

The Department recommends:

- Seeking authority to implement the results of a recent Transitional Living Program (TLP) rate setting project;
 - Evaluation of tiered rate reimbursement development for Alternative Care Facilities (ACFs) to support higher need members in the community;
 - Further increasing the CHRP foster care home rates to align with DD waiver host home rates;
 - Aligning respite service limits provided under the CHRP waiver with respite service limits under the CES waiver;
 - Adding host homes as a residential provider type for members ages 18 and under to increase facility capacity limits and provider capacity;
 - Prioritizing efforts to stabilize and strengthen the long-term care direct care workforce;
 - Aligning rates for services that span multiple waivers;
 - Pursuing the implementation of geographic rate modifiers for waiver services to address disparities of provider capacity across the state; and
 - A minimum of a 10 percent rate increase in order to support the lowest paid direct-care workers.
- **TARGETED CASE MANAGEMENT (TCM):** Analyses suggest that TCM payments at 87.84 percent of the benchmark were inconclusive to allow for member access and provider retention. The department recommends continuing support to the Case Management Redesign project/team to ensure the project/team considers all stakeholder perspectives, as well as evidence-based data that can be used to inform project initiatives.

REPORT YEAR	RECOMMENDATION	SERVICE	IMPLEMENT. DATE	NOTES
2016	Does not recommend changes to home health service and private duty nursing service rates	Home Health RN	Jul-17	6.02%
2016	Does not recommend changes to home health service and private duty nursing service rates	Home Health PT	Jul-17	6.01%
2016	Does not recommend changes to home health service and private duty nursing service rates	Home Health OT	Jul-17	6.02%

JBC STAFF MEMO: MEDICAID PROVIDER RATE REVIEW

PAGE 5

NOVEMBER 18, 2021

REPORT YEAR	RECOMMENDATION	SERVICE	IMPLEMENT. DATE	NOTES
2016	Does not recommend changes to home health service and private duty nursing service rates	Home Health Speech Therapy	Jul-17	6.01%
2016	Does not recommend changes to home health service and private duty nursing service rates	Private Duty Nursing LPN	Jul-17	7.24%
2016	Does not currently propose changes to non-emergent medical transportation service and emergency medical transportation service rates; in 2017, the Department plans to evaluate better claims data, which will be available via the new non-emergent medical transportation broker, and investigate the MPRRAC's recommendations	Emergency Medical Transportation	Jul-17	7%
2016	Does not currently propose changes to non-emergent medical transportation service and emergency medical transportation service rates; in 2017, the Department plans to evaluate better claims data, which will be available via the new non-emergent medical transportation broker, and investigate the MPRRAC's recommendations	Non-Emergent Medical transportation	Jul-17	7%
2016	Changes to physician-administered drug rates; the Department recommends updating the pricing for physician-administered drugs on a periodic basis consistent with pricing for other drugs	Physician Administered Drugs	Jul-17	Change PAD methodology to Average Sales Price
2016	Does not currently propose changes to non-emergent medical transportation service and emergency medical transportation service rates; in 2017, the Department plans to evaluate better claims data, which will be available via the new non-emergent medical transportation broker, and investigate the MPRRAC's recommendations	Emergency Medical Transportation	Jul-18	6.61%
2016	Does not currently propose changes to non-emergent medical transportation service and emergency medical transportation service rates; in 2017, the Department plans to evaluate better claims data, which will be available via the new non-emergent medical transportation broker, and investigate the MPRRAC's recommendations	Non-Emergent Medical transportation	Jul-18	6.61%
2016	Does not currently propose changes to non-emergent medical transportation service and emergency medical transportation service rates; in 2017, the Department plans to evaluate better claims data, which will be available via the new non-emergent medical transportation broker, and investigate the MPRRAC's recommendations	Emergency Medical Transportation	Jul-19	Increase to subset of codes
2016	Does not currently propose changes to non-emergent medical transportation service and emergency medical transportation service rates; in 2017, the Department plans to evaluate better claims data, which will be available via the new non-emergent medical transportation broker, and investigate the MPRRAC's recommendations	Non-Emergent Medical transportation	Jul-19	Increase to subset of codes
2016	Does not currently propose changes to laboratory and pathology service rates; as a part of the Department's rate setting process, the Department will reevaluate laboratory service rates after Medicare publishes new rates in 2017	Laboratory & Pathology	Jul-19	Rebalanced codes below 20% and above 200% of the benchmark
2017	Increasing the rate for alternative care facility services	HCBS ACF	Jul-18	25%
2017	Increasing rates for other waiver services as identified through the ongoing rate setting process, with special attention to services	HCBS Personal Care	Jul-18	DD, SLS, CES
2017	Increasing rates for other waiver services as identified through the ongoing rate setting process, with special attention to services	HCBS Homemaker	Jul-18	DD, SLS, CES
2017	Increasing rates for other waiver services as identified through the ongoing rate setting process, with special attention to services	HCBS Day Habilitation	Jul-18	DD, SLS, CES

JBC STAFF MEMO: MEDICAID PROVIDER RATE REVIEW

PAGE 6

NOVEMBER 18, 2021

REPORT YEAR	RECOMMENDATION	SERVICE	IMPLEMENT. DATE	NOTES
2017	Increasing rates for other waiver services as identified through the ongoing rate setting process, with special attention to services	HCBS Prevocational Services	Jul-18	DD, SLS, CES
2017	Increasing rates for other waiver services as identified through the ongoing rate setting process, with special attention to services	HCBS Residential Habilitation	Jul-18	DD, SLS, CES
2017	Increasing rates for other waiver services as identified through the ongoing rate setting process, with special attention to services	HCBS Mentorship	Jul-18	DD, SLS, CES
2017	Increasing rates for other waiver services as identified through the ongoing rate setting process, with special attention to services	HCBS Behavioral Line Staff	Jul-18	DD, SLS, CES
2017	Increasing rates for other waiver services as identified through the ongoing rate setting process, with special attention to services	HCBS Respite	Jul-18	DD, SLS, CES
2017	Increasing rates for other waiver services as identified through the ongoing rate setting process, with special attention to services	HCBS Community Connector	Jul-18	DD, SLS, CES
2017	Increasing rates for other waiver services as identified through the ongoing rate setting process, with special attention to services	HCBS Supported Employment	Jul-18	DD, SLS, CES
2017	A reduction in anesthesia service rates to 100% of the benchmark.	Anesthesia	Jul-19	Reduced rates to 120% of benchmark
2017	Increasing rates for other waiver services as identified through the ongoing rate setting process, with special attention to services	HCBS Adult Day	Jan-20	Waivers - EBD, CMHS, BI, SCI
2017	Increasing rates for other waiver services as identified through the ongoing rate setting process, with special attention to services	HCBS Group Residential Supports	Jan-20	Waiver - DD
2017	Increasing rates for other waiver services as identified through the ongoing rate setting process, with special attention to services	HCBS Home Delivered Meals	Jan-20	EBD, CMHS, BI, SCI, SLS
2017	Increasing rates for other waiver services as identified through the ongoing rate setting process, with special attention to services	HCBS Homemaker IHSS/CDASS	Jan-20	EBD, CMHS, SCI
2017	Increasing rates for other waiver services as identified through the ongoing rate setting process, with special attention to services	HCBS Homemaker basic	Jan-20	SLS, CES
2017	Increasing rates for other waiver services as identified through the ongoing rate setting process, with special attention to services	HCBS Homemaker extended	Jan-20	SLS, CES
2017	Increasing rates for other waiver services as identified through the ongoing rate setting process, with special attention to services	HCBS Life Skills Training	Jan-20	EBD, CMHS, BI, SCI, SLS
2017	Increasing rates for other waiver services as identified through the ongoing rate setting process, with special attention to services	HCBS Mental Health Counseling	Jan-20	BI
2017	Increasing rates for other waiver services as identified through the ongoing rate setting process, with special attention to services	HCBS Peer Mentorship	Jan-20	EBD, CMHS, BI, SCI, SLS
2017	Increasing rates for other waiver services as identified through the ongoing rate setting process, with special attention to services	HCBS Personal Care (Relative, IHSS, CDASS)	Jan-20	EBD, CMHS, BI, SCI, SLS
2017	Increasing rates for other waiver services as identified through the ongoing rate setting process, with special attention to services	HCBS Respite Nursing Facilities	Jan-20	EBD, CMHA, BI, SCI
2017	Increasing rates for other waiver services as identified through the ongoing rate setting process, with special attention to services	HCBS Respite In Home	Jan-20	EBD, BI, SCI
2017	Increasing rates for other waiver services as identified through the ongoing rate setting process, with special attention to services	HCBS Respite ACF	Jan-20	EBD, CMHS, SCI
2017	Increasing rates for other waiver services as identified through the ongoing rate setting process, with special attention to services	HCBS Respite individual	Jan-20	SLS, CES

JBC STAFF MEMO: MEDICAID PROVIDER RATE REVIEW

PAGE 7

NOVEMBER 18, 2021

REPORT YEAR	RECOMMENDATION	SERVICE	IMPLEMENT. DATE	NOTES
2018	An increase to certain preventive dental service rates.	Dental	Jul-19	Increase to subset of codes
2018	An increase to maternity service rates, not to exceed 80% of the benchmark.	Maternity Services	Jul-19	all service codes less than 80% of the benchmark
2018	A budget-neutral rebalancing of certain individual evaluation & management and primary care rates with payments below 80% and above 100% of the benchmark.	Primary Care and E&M	Jul-19	Budget Neutral rebalance approved
2018	A budget-neutral rebalancing of certain individual radiology rates with payments below 80% and above 100% of the benchmark.	Radiology Services	Jul-19	Budget Neutral rebalance approved
2018	A budget-neutral rebalancing of certain individual physical and occupational therapy rates with payments below 80% and above 100% of the benchmark.	PT/OT	Jul-19	Budget Neutral rebalance approved
2019	Evaluate individual services that were identified to be below 80% and above 100% of the benchmark to identify services that would benefit from an immediate rate change.	Behavioral Health and RCCF	Jul-20	Rebalance approved
2019	Evaluate individual services not subject to the UPL that were identified to be below 80% and above 100% of the benchmark to identify services that would benefit from an immediate rate change.	DME		Rebalance requested for FY 2022-23
2020	Rebalancing POS rates and will evaluate individual services that were identified to be below 80% of the benchmark and above 100% of the benchmark to identify services that would benefit from an immediate rate change.	Prosthetics, Orthotics, and Supplies	Jul-21	Rebalance approved
2020	Rebalancing speech therapy rates and evaluating individual services that were identified to be below 80% of the benchmark and above 100% of the benchmark to identify services that would benefit from an immediate rate change	Speech Therapy		Increase requested for FY 2022-23