FAQs for Federally-facilitated Exchange (FFE) User Fee Adjustment Submission

Date: May 7, 2018

Purpose: The Centers for Medicare & Medicaid Services (CMS) is releasing a web-based form through which Third-Party Administrators (TPAs), including Pharmacy Benefit Managers (PBMs) that provide services to a self-insured group health plan offered by an eligible organization, and Federally-facilitated Exchange (FFE) issuers that have entered into an agreement with these TPAs (including PBMs) can report contraceptive claims costs incurred by plan participants and beneficiaries.

Completion of the web-based form will allow CMS to: 1) determine the reduction to the FFE user fee for the participating FFE issuer; 2) ensure that these adjustments to the monthly FFE user fee reflect payments for contraceptive services paid for under this accommodation under 45 C.F.R. §§ 147.131(c) and 156.50(d); and 3) ensure that the adjustment, equal to cost of contraceptive claims incurred during the applicable benefit year plus a 15 percent administrative margin, is applied to the appropriate FFE issuer.

The FAQs below are intended to assist issuers and TPAs (including PBMs) with navigating the submission requirements and understanding the mechanism through which CMS will apply the FFE user fee adjustment to FFE issuers.

Background: The final rule "Coverage of Certain Preventive Services Under the Affordable Care Act" (78 FR 39870) published by the Department of Health and Human Services (HHS), the Department of the Treasury, and the Department of Labor (the Departments) on July 2, 2013, set forth regulations regarding coverage for certain contraceptive services, so that, to the extent provided for in comprehensive guidelines supported by the Health Resources and Services Administration, individuals in group health plans maintained by eligible organizations can have access to the full range of FDA-approved contraceptives without cost sharing, while respecting eligible organizations' objections to contraception based in religious belief. Under the regulations, eligible organizations can receive an accommodation relating to contraceptive coverage so that they are not required to provide, arrange, or make payment for these services.

The July 2, 2013 and July 14, 2015 (80 FR 41346) final rules also set forth processes and standards to reimburse the payments for contraceptive services made by a TPA on behalf of participants and beneficiaries in self-insured plans of eligible organizations, through an adjustment in the FFE user fee payable by an issuer participating in the FFE that has agreed to reimburse the TPA for the cost of the contraceptive services. In order to facilitate the FFE user fee adjustment, these final rules require an information collection from applicable participating FFE issuers and TPAs.

FAQs for Federally-facilitated Exchange (FFE) User Fee Adjustment Submission Requirements

Frequently Asked Questions and Answers:

Submission Process & Deadlines

Q: How will CMS collect data for the Federally-facilitated Exchange (FFE) User Fee Adjustment?

A: For the FFE User Fee Adjustment, CMS will collect data through a web-based form which will be available on the Center for Consumer Information and Insurance Oversight (CCIIO) website and will be described on the Registration for Technical Assistance Portal (REGTAP). An e-mail will be sent to participants that participated in prior benefit year(s) FFE user fee adjustments. TPAs (including, as discussed below, PBMs) will also be required to submit the Notice of Intent Disclosure Form through the web-based form.

Q: When is the submission window for the FFE User Fee Adjustment and Notice of Intent Disclosure Form?

A: CMS anticipates the data submission window for the FFE User Fee Adjustment, including submission of the Notice of Intent Disclosure Form by TPAs (including PBMs), will be May 15th to June 14th, or the next applicable business day if May 15th or June 14th fall on a holiday or weekend. Information when the data submission window will occur can be found on REGTAP through https://www.regtap.info/.

Q: How should TPAs (including PBMs) submit the Notice of Disclosure Form indicating that they intend to partner with an FFE issuer to seek a user fee adjustment for a benefit year?

A: TPAs (including PBMs) should submit the Notice of Intent Disclosure Form through the web-based form. This is the same web-based form that TPAs (including PBMs) will use to report contraceptive claims costs incurred for a benefit year.

Q: How should FFE issuers and TPAs (including PBMs) submit the required information to CMS? Is this data collected through the Health Insurance Oversight System (HIOS) or the External Data Gathering Environment (EDGE) server? What format should be used?

A: CMS will not be collecting this information through HIOS or through the EDGE server. CMS has a web-based form https://acapaymentoperations.secure.force.com/FFM UserFeeAdjustment that will be used to collect the information necessary to process the user fee adjustment. FFE issuers and TPAs (including PBMs) should complete the information requested for their respective circumstances by completing the web-based form in spring of the benefit year following the applicable benefit year.

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Frequently Asked Questions and Answers:

Q: Will CMS provide training on how to use the web-based form? Is there a resource for additional questions?

A: Yes, CMS will conduct a webinar to train issuers and TPAs (including PBMs) on successfully completing and submitting the web-based form. CMS anticipates having training in spring of the benefit year following the applicable benefit year, before the start of the data submission window. Details will be announced through https://www.regtap.info/. Policy questions can be emailed to FFMuserfeeadjustments@cms.hhs.gov.

Eligible Submitters

Q: Can a Pharmacy Benefit Manager (PBM) enter into an identical arrangement with an issuer in order to receive reimbursement for contraceptive services that it has provided to participants and beneficiaries of a self-insured group health plan of an eligible organization?

A: Yes. Like other TPAs, PBMs that perform these functions for participants and beneficiaries of a self-insured group health plan of an eligible organization can enter into an arrangement with an issuer to receive reimbursement for contraceptive services that it has provided. If a PBM intends to enter into this arrangement with an FFE issuer for reimbursement for contraceptive services provided, it will be subject to all of the requirements that apply to TPAs generally, including, but not limited to, submission of the "Notification of Intent" to HHS through the web-based form.

Q: If the TPA (including a PBM) and the FFE issuer are part of the same entity (e.g., parent company or holding group), do the TPA and FFE issuer each have to submit separate web-based forms to CMS in order to receive the user fee adjustment?

A: If the TPA (including a PBM) is part of the same entity or parent company as the FFE issuer, the TPA does not need to submit the TPA submission form. If part of the same entity, the submitter should only complete the portion of the web-based form that applies to FFE issuers.

FAQs for Federally-facilitated Exchange (FFE) User Fee Adjustment Submission Requirements

Frequently Asked Questions and Answers:

Q: Can an FFE issuer simply include the paid claims amount on the participating issuer form without the TPA (including a PBM) needing to also complete and submit the separate form applicable to TPAs?

A: If the TPA (including a PBM) and FFE issuer are not part of the same entity, the TPA must still fill out a web-based form indicating the total value of eligible contraceptive claims that were paid. The FFE issuer must also submit the total dollar value of eligible contraceptive claims incurred during the applicable benefit year and the total amount that was paid, or that it has agreed to pay, to the TPA. Receiving the information from both entities will help CMS ensure that the amounts are being reported consistently and that the FFE issuer is reporting eligible claims for which it has actually reimbursed the TPA, or will do so.

Claims Reporting & FFE User Fee Calculation

Q: Can the FFE issuer or TPA (including a PBM) include claims costs incurred in the future benefit year as part of its claims submission for a previous benefit year?

A: No. For example, for the 2017 benefit year, FFE issuers and TPAs (including PBMs) should report the total dollar amount for payments for contraceptive claims provided consistent with the guidelines identified at 45 CFR 147.130(a)(1)(iv), incurred by plan participants and beneficiaries for the year, through December 31, 2017. FFE issuers and TPAs (including PBMs) should count the dollar value of payments for claims incurred between January 1, 2017 and December 31, 2017 in the total amount reported, even if the claims were not paid by December 31, 2017.

Q: Can CMS conduct the FFE user fee adjustment data collection earlier in the year, so that FFE issuers and TPAs (including PBMs) do not have to carry claims costs over for an additional benefit year before receiving reimbursement?

A: CMS intends to provide a data submission window for a particular benefit year user fee adjustment from May 15th to June 14th, or the next applicable business day if May 15th or June 14th falls on a holiday or weekend, of the following calendar year.

FAQs for Federally-facilitated Exchange (FFE) User Fee Adjustment Submission Requirements

Frequently Asked Questions and Answers:

Q: Is there a way that the FFE issuer can be reimbursed for the administrative costs associated with entering into an agreement with a TPA (including a PBM)?

A: The user fee adjustment amount that is credited toward an FFE issuer's user fee obligation is equal to the dollar amount of contraceptive claims reimbursement paid to the TPA (including a PBM), plus an additional 15 percent for administrative costs incurred. For example, if the FFE issuer paid $100,000 in reimbursement for contraceptive claims to a TPA for claims incurred through December 31, of a particular benefit year, the issuer's total user fee adjustment amount will be $115,000.

Q: Can a TPA (including a PBM) be reimbursed for the administrative costs associated with entering into an agreement with a FFE issuer?

A: CMS has not established a mechanism through which TPAs (including PBMs) can be directly reimbursed for the administrative costs associated with administering contraceptive claims for eligible organizations. However, the agreement between the FFE issuer and the TPA (including a PBM) may provide that the FFE issuer will share a portion of its administrative margin with the TPA in order to help offset the TPA's administrative costs.

Transfer of FFE User Fee Adjustment Amount to FFE Issuers

Q: How will issuers receive payment for the contraceptive claims costs and associated administrative costs that they have incurred? Does an FFE issuer need to do something to ensure that CMS can properly transfer the monies to the issuer's account?

A: After an FFE issuer has submitted the required data to CMS through the web-based form, the FFE issuer does not need to take any further action to ensure that the user fee adjustment is applied. CMS will not make direct payments to FFE issuers for the user fee adjustment amount. Instead, CMS will automatically deduct the user fee adjustment amount from the user fee amount that the issuer otherwise owes for a given month. CMS collects FFE user fees by automatically deducting the user fee amount from issuers' Advance Monthly Payment of Premium Tax Credits (APTCs).

Q: When will the FFE issuer receive the FFE user fee adjustment?

A: After the data submission period for the applicable benefit year has ended, CMS will apply the FFE user fee adjustment for a benefit year on a monthly basis as an adjustment to the current year's monthly user fee charges. We will automatically deduct the user fee adjustment amount from the issuer's monthly user fee obligation starting in the summer immediately following the data submission period. For example, for benefit year 2017 contraceptive claims, CMS would collect data in May-June 2018 from TPAs/PBMs and FFE issuers, and issuers would begin to receive the monthly FFE user fee adjustment beginning in July/August 2018.

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CMS will credit the user fee adjustment amount for a month against an FFE issuer's monthly user fee obligation until the user fee obligation for that month has been completely offset. Any remaining user fee adjustment amount will be credited towards the issuer's user fee obligation for the next month. CMS will continue this process until the user fee adjustment amount is fully exhausted.

Q: What happens if the FFE user fee adjustment amount is greater than the FFE issuer's total user fee obligation for the year?

A: CMS will credit the user fee adjustment amount against the FFE issuer's user fee obligation on a monthly basis. If the FFE issuer's user fee obligation has been fully offset at the end of the year and a user fee adjustment amount still remains, CMS will roll-over the amount of the adjustment to the next year and will credit the remaining amount against the next year's user fees.