



MEDICARE-MEDICAID COORDINATION OFFICE

DATE: December 5, 2017

TO: Medicare-Medicaid Plans

FROM: Lindsay P. Barnette
Director, Models, Demonstrations & Analysis Group

SUBJECT: 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.

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. A Medicare Advantage (MA) 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 (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.

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. An MMP, however, does not have a deductible and may not limit the non-contracted provider's reimbursement to the amount payable under the Medicaid State Plan.

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. 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.