

or resume with the most recent attendance session of record.

(B) Beneficiaries who begin the set of MDPP services on or after January 1, 2021 who are in the first 12 months of the set of MDPP services as of the start of an applicable 1135 waiver event, whose in-person sessions are suspended due to the applicable 1135 waiver event, and who elect not to continue with MDPP services virtually, may elect to restart the set of MDPP services at the beginning or may resume with the most recent attendance session of record.

(C) Beneficiaries who began the set of MDPP services between January 1, 2021 and December 31, 2021 and who are in the second year of the set of MDPP services as of the start of an applicable 1135 waiver event, whose in-person sessions are suspended due to the applicable 1135 waiver event, and who elect not to continue with MDPP services virtually can elect to attend ongoing maintenance sessions; and may restart the ongoing maintenance session interval in which they were participating at the start of the applicable 1135 waiver event or may resume with the most recent attendance session of record.

(D) Beneficiaries whose in-person sessions are suspended due to the applicable 1135 waiver event who elect to continue with MDPP services virtually, as described in paragraph (e)(2)(i) of this section, are not eligible to restart the set of MDPP services at a later date, but may elect to suspend the virtual set of MDPP services and resume the set of in-person MDPP services with the most recent attendance session of record.

(E) Beneficiaries may make an election as described in paragraph (e)(3)(v)(A), (B), (C), or (D) of this section, as applicable, only one time per applicable 1135 waiver event.

(F) Beneficiary eligibility, as described in paragraph (c)(1)(i) of this section, will not be impacted by any changes to the beneficiary's body mass index (BMI) or reduction in hemoglobin A1c, fasting plasma glucose, or 2-hour plasma glucose test values achieved during the set of MDPP services or any intervening time in which a beneficiary has suspended the set of MDPP services. MDPP suppliers will utilize

the following weight measurements as the baseline weight for purposes of determining all weight-loss achievements:

(1) For an MDPP beneficiary who began receiving the set of MDPP services before March 31, 2020, has suspended services during an applicable 1135 waiver event, and then elects to restart the set of MDPP services at the first core session, the MDPP supplier must record a new baseline weight on the date of first core session that restarts the set of MDPP services.

(2) For an MDPP beneficiary who began receiving the set of MDPP services on or after January 1, 2021, has suspended services during an applicable 1135 waiver event, and then resumes the set of MDPP services either at the most recent attendance session of record or restarts the ongoing maintenance session interval in which they were participating at the start of the applicable 1135 waiver event, the MDPP supplier must use the baseline weight recorded at the beneficiary's first core session.

(vi) The minimum weight loss requirements for beneficiary eligibility in the ongoing maintenance session intervals described in paragraphs (c)(1)(ii)(B) and (c)(1)(iii)(B) of this section are waived only for MDPP beneficiaries who were receiving the MDPP set of services prior to January 1, 2021.

[81 FR 80552, Nov. 15, 2016; 81 FR 81698, Nov. 18, 2016, as amended at 82 FR 53358, Nov. 15, 2017; 85 FR 19287, Apr. 6, 2020; 85 FR 85027, Dec. 28, 2020; 86 FR 65666, Nov. 19, 2021; 88 FR 79528, Nov. 16, 2023]

### **Subpart C—Home Health Services Under SMI**

#### **§ 410.80 Applicable rules.**

Home health services furnished under Medicare Part B are subject to the rules set forth in subpart E of part 409 of this chapter.

### **Subpart D—Comprehensive Outpatient Rehabilitation Facility (CORF) Services**

#### **§ 410.100 Included services.**

Subject to the conditions and limitations set forth in §§ 410.102 and 410.105,

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CORF services means the following services furnished to an outpatient of the CORF by personnel that meet the qualifications set forth in § 485.70 of this chapter. Payment for CORF services are made in accordance with § 414.1105.

(a) *Physician's services.* CORF facility physician services are administrative in nature and include consultation with and medical supervision of non-physician staff, participation in plan of treatment reviews and patient care review conferences, and other medical and facility administration activities. Diagnostic and therapeutic services furnished to an individual CORF patient by a physician in a CORF facility are not CORF physician services. These services, if covered, are physician services under § 410.20 with payment for these services made to the physician in accordance with part 414 subpart B.

(b) *Physical therapy services.* (1) These services include—

(i) Testing and measurement of the function or dysfunction of the neuromuscular, musculoskeletal, cardiovascular and respiratory systems; and.

(ii) Assessment and treatment related to dysfunction caused by illness or injury, and aimed at preventing or reducing disability or pain and restoring lost function.

(2) The establishment of a maintenance therapy program for an individual whose restoration potential has been reached is a physical therapy service; however, maintenance therapy itself is not covered as part of these services.

(c) *Occupational therapy services.* These services include—

(1) Teaching of compensatory techniques to permit an individual with a physical impairment or limitation to engage in daily activities.

(2) Evaluation of an individual's level of independent functioning.

(3) Selection and teaching of task-oriented therapeutic activities to restore sensory-integrative function; and

(4) Assessment of an individual's vocational potential, except when the assessment is related solely to vocational rehabilitation.

(d) *Speech-language pathology services.* These are services for the diagnosis and treatment of speech and language dis-

orders that create difficulties in communication.

(e) *Respiratory therapy services.* (1) Respiratory therapy services are for the assessment, treatment, and monitoring of patients with deficiencies or abnormalities of cardiopulmonary function.

(2) Respiratory therapy services include the following:

(i) Application of techniques for support of oxygenation and ventilation of the patient.

(ii) Therapeutic use and monitoring of gases, mists, and aerosols and related equipment.

(iii) Bronchial hygiene therapy.

(iv) Pulmonary rehabilitation techniques to develop strength and endurance of respiratory muscles and other techniques to increase respiratory function, such as graded activity services; these services include physiologic monitoring and patient education.

(f) *Prosthetic device services.* These services include—

(1) Prosthetic devices (excluding dental devices and renal dialysis machines), that replace all or part of an internal body organ or external body member (including contiguous tissue) or replace all or part of the function of a permanently inoperative or malfunctioning external body member or internal body organ; and

(2) Services necessary to design the device, select materials and components, measure, fit, and align the device, and instruct the patient in its use.

(g) *Orthotic device services.* These services include—

(1) Orthopedic devices that support or align movable parts of the body, prevent or correct deformities, or improve functioning; and

(2) Services necessary to design the device, select the materials and components, measure, fit, and align the device, and instruct the patient in its use.

(h) *Social and psychological services.* Social and psychological services include the assessment and treatment of an individual's mental and emotional functioning and the response to and

rate of progress as it relates to the individual's rehabilitation plan of treatment, including physical therapy services, occupational therapy services, speech-language pathology services and respiratory therapy services.

(i) *Nursing care services.* Nursing care services include nursing services provided by a registered nurse that are prescribed by a physician and are specified in or directly related to the rehabilitation treatment plan and necessary for the attainment of the rehabilitation goals of the physical therapy, occupational therapy, speech-language pathology, or respiratory therapy plan of treatment.

(j) *Drugs and biologicals.* These are drugs and biologicals that are the following:

(1) Prescribed by a physician and administered by or under the supervision of a physician or by a registered professional nurse; and

(2) Not excluded from Medicare Part B payment for reasons specified in § 410.29.

(k) *Supplies and durable medical equipment.* Supplies and durable medical equipment include the following:

(1) Disposable supplies.

(2) Durable medical equipment of the type specified in § 410.38 (except for renal dialysis systems) for a patient's use outside the CORF, whether purchased or rented.

(l) *Home environment evaluation.* A home environment evaluation—

(1) Is a single home visit to evaluate the potential impact of the home situation on the patient's rehabilitation goals.

(2) Requires the presence of the patient and the physical therapist, occupational therapist, or speech-language pathologist, as appropriate.

[51 FR 41339, Nov. 14, 1986; 52 FR 4499, Feb. 12, 1987, as amended at 72 FR 66399, Nov. 27, 2007]

#### § 410.102 Excluded services.

None of the services specified in § 410.100 is covered as a CORF service if the service—

(a) Would not be covered as an inpatient hospital service if furnished to a hospital inpatient;

(b) Is not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the func-

tioning of a malformed body member. An example would be services furnished as part of a maintenance program involving repetitive activities that do not require the skilled services of nurses or therapists.

#### § 410.105 Requirements for coverage of CORF services.

Services specified in § 410.100 and not excluded under § 410.102 are covered as CORF services if they are furnished by a participating CORF (that is, a CORF that meets the conditions of subpart B of part 485 of this chapter, and has in effect a provider agreement under part 489 of this chapter) and if the following requirements are met:

(a) *Referral and medical history.* The services must be furnished to an individual who is referred by a physician who certifies that the individual needs skilled rehabilitation services, and makes the following information available to the CORF before or at the time treatment is begun:

(1) The individual's significant medical history.

(2) Current medical findings.

(3) Diagnosis(es) and contraindications to any treatment modality.

(4) Rehabilitation goals, if determined.

(b) *When and where services are furnished.* (1) All services must be furnished while the individual is under the care of a physician.

(2) Except as provided in paragraph (b)(3) of this section, the services must be furnished on the premises of the CORF.

(3) *Exceptions.* (i) Physical therapy, occupational therapy, and speech-language pathology services may be furnished away from the premises of the CORF including the individual's home when payment is not otherwise made under Title XVIII of the Act.

(ii) The single home environment evaluation visit specified in § 410.100(m) is also covered.

(c) *Plan of treatment.* (1) The service must be furnished under a written plan of treatment that—

(i) Is established and signed by a physician before treatment is begun; and

(ii) Prescribes the type, amount, frequency, and duration of the services to

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be furnished, and indicates the diagnosis and anticipated rehabilitation goals.

(2) The plan must be reviewed at least every 60 days for respiratory therapy services and every 90 days for physical therapy, occupational therapy and speech-language pathology services by a facility physician or the referring physician who, when appropriate, consults with the professional personnel providing the services.

(3) The reviewing physician must certify or recertify that the plan is being followed, the patient is making progress in attaining the rehabilitation goals, and the treatment is having no harmful effects on the patient.

(d) *Claims.* Effective for dates of service on and after January 1, 2020 physical therapy or occupational therapy services covered as part of a rehabilitation plan of treatment described in paragraph (c) of this section, as applicable—

(1) Claims for such services furnished in whole or in part by a physical therapist assistant or an occupational therapy assistant must be identified with the inclusion of the respective prescribed modifier; and

(2) Effective for dates of service on and after January 1, 2022, such claims are paid an amount equal to 85 percent of the amount of payment otherwise applicable for the service as defined at section 1834(k) of the Act.

(3) For purposes of this paragraph, “furnished in whole or in part” means when the physical therapist assistant or occupational therapy assistant either—

(i) Furnishes all the minutes of a service exclusive of the respective physical therapist or occupational therapist; or

(ii) Except as provided in paragraph (d)(3)(iii) of this section, furnishes a portion of a service, or in the case of a 15-minute (or other time interval) timed code, a portion of a unit of service, separately from the part furnished by the physical or occupational therapist such that the minutes for that portion of a service (or unit of a service) exceed 10 percent of the total time for that service (or unit of a service).

(iii) Paragraph (d)(3)(ii) of this section does not apply when determining

whether the prescribed modifier applies to the last 15-minute unit of a service billed for a patient on a treatment day when the physical or occupational therapist provides more than the midpoint of a 15-minute timed code, that is, 8 or more minutes, regardless of any minutes for the same service furnished by the physical therapist assistant or occupational therapy assistant.

(iv) Where there are two remaining 15-minute units to bill of the same service and the physical therapist and the physical therapist assistant or the occupational therapist and the occupational therapy assistant, as applicable, each provided between 9 and 14 minutes, with a total time of at least 23 minutes, one unit of the service is billed with the prescribed modifier for the minutes furnished by the physical therapist assistant or occupational therapy assistant and one unit is billed without the prescribed modifier for the service provided by the physical therapist or occupational therapist.

[51 FR 41339, Nov. 14, 1986, as amended at 56 FR 8841, Mar. 1, 1991; 72 FR 66400, Nov. 27, 2007; 77 FR 69363, Nov. 16, 2012; 83 FR 60073, Nov. 23, 2018; 84 FR 63191, Nov. 15, 2019; 86 FR 65666, Nov. 19, 2021]

### Subpart E—Community Mental Health Centers (CMHCs) Providing Partial Hospitalization Services and Intensive Outpatient Services

#### § 410.110 Requirements for coverage of partial hospitalization services by CMHCs.

Medicare part B covers partial hospitalization services furnished by or under arrangements made by a CMHC if they are provided by a CMHC as defined in § 410.2 that has in effect a provider agreement under part 489 of this chapter and if the services are—

(a) Prescribed by a physician and furnished under the general supervision of a physician;

(b) Subject to certification by a physician in accordance with § 424.24(e)(1) of this subchapter; and

(c) Furnished under a plan of treatment that meets the requirements of § 424.24(e)(2) of this subchapter.

[59 FR 6577, Feb. 11, 1994]