

MEDICARE PART A BULLETIN

January 9, 1997

CMHC Medicare Bulletin M-07
SNF Medicare Bulletin S-14

TO: All Medicare Community Mental Health Center (CMHC) and
Skilled Nursing Facility (SNF) Providers

FROM: Andy DePirro, Director, Program Relations

SUBJECT: **PARTIAL HOSPITALIZATION SERVICES PROVIDED BY COMMUNITY
MENTAL HEALTH CENTERS TO PATIENTS OF SKILLED NURSING
FACILITIES**

ATTENTION MEDICARE BUSINESS OFFICE: Please distribute to all appropriate health care facility personnel.

The Health Care Financing Administration (HCFA) recently distributed information to Medicare contractors (intermediaries and carriers) regarding Community Mental Health Centers (CMHCs) providing partial hospitalization program (PHP) services under arrangements in Skilled Nursing Facilities (SNFs). The purpose of this bulletin is to share HCFA's information, in that HCFA has determined that an initial evaluation by a CMHC on-site at a SNF, followed by the development of a treatment plan, would not be covered PHP services.

HCFA advises that the increasing practice of CMHCs providing partial hospitalization program (PHP) services under arrangements in SNFs raises serious issues for the Medicare program in terms of the questionable appropriateness of the level of intervention of a PHP provided to the SNF population. Medicare law excludes from the definition of a SNF any institution that is "primarily for the care and treatment of mental diseases . . ." (Section 1819(a) of the Social Security Act). This means that SNFs would not ordinarily serve residents who require the intensive and sophisticated mental health services involved in providing active treatment for a psychiatric condition. Instead, SNFs usually serve residents with primarily medical rather than psychiatric conditions. Since most residents would require mental health services (if at all) only at a less intensive level that is subordinate to their primary medical condition, they would not appear to be appropriate candidates for the PHP benefit.

HCFA has been informed of a CMHC that plans to provide what it calls "Consultation Liaison Services" to SNFs as part of their "cooperative agreements with community agencies". HCFA's understanding of the CMHC's explanation of their services is that they will provide psychiatric consultation services to SNF patients at the SNF's request. A clinical nurse specialist (CNS) employed by the CMHC will conduct an initial evaluation of the patient on-site at the SNF. The initial evaluation is then reviewed by the CMHC's Medical Director. Any additional information that may be needed to evaluate the patient's condition will be gathered by the Medical Director on-site at the SNF. The Medical Director will then make an initial diagnosis and treatment recommendations. The CNS will inform the patient's primary care physician of the diagnosis and treatment plan. The CMHC will treat the patient if requested to do so by the primary care physician.

If PHP services are recommended for a SNF patient, the CMHC believes that the initial evaluation and

treatment planning will be covered as a PHP service. To support this belief, the CMHC cited a passage from a set of questions and answers (Q&A) that was distributed at the April 1994 Part A Medical Review conference held in Baltimore. The passage they cited is part of the answer to a question about a CMHC performing routine mental health evaluations in SNFs. The passage reads as follows:

“If the CMHC physician who established the plan of care for a partial hospitalization patient on-site at a SNF or NF certifies the need for a mental health evaluation once the partial hospitalization services have commenced, then the mental health evaluation would be covered as a partial hospitalization service.”

According to the HCFA, the CMHC has misinterpreted this statement. The correct interpretation of this statement is that mental health evaluations performed after PHP services have begun are covered as PHP services. The statement does not refer to the initial evaluation that determines the need for PHP services or to the development of a treatment plan. Therefore, the initial evaluation and treatment plan would not be covered as PHP services.

Certain professional services are unbundled. However, administrative (rather than professional) services remain bundled. The distinction between professional and administrative services is whether the services are directly furnished to an individual patient or are performed indirectly for the CMHC in general. In addition, services performed by a psychologist, who is not recognized as a clinical psychologist (CP) for Medicare, or by a physician assistant (PA), who is not recognized as a PA for Medicare, or by a PA when not in a designated geographic area for separate PA coverage, are bundled into CMHC services. Professional services performed for individual patients by physicians, PAs, and CPs in a CMHC, including mental health evaluations and the development of treatment plans, are unbundled services and not considered PHP services.

In the scenario described above, the CMHC sends a clinical nurse specialist (CNS) to the SNF to conduct the initial evaluation. The initial evaluation by a CNS may include one or more diagnostic tests. If so, billing and coverage requirements for diagnostic testing under Part B are applicable. Other “evaluation” services performed by a CNS prior to the start of PHP services cannot be included in covered CMHC services. Unless the services are covered under the diagnostic testing benefit, there is no other benefit under which they can be covered.

The CMHC claims that there is a protocol that was established between HCFA and the American Association for Partial Hospitalization (AAPH) regarding the billing of initial evaluations as PHP services. To the best of HCFA’s knowledge, there is no agreement, either oral or written, between HCFA and AAPH regarding a “protocol” for the billing of initial evaluations as PHP services.

In addition to the information provided above, HCFA is furnishing answers to related questions concerning PHP services. The questions and answers are as follows:

QUESTION 1:

Are initial and subsequent mental health evaluations and development of treatment plans considered PHP services if performed by someone other than a physician, CP or PA? Although these services are necessary to determine the need for and success of PHP services, they are not specifically mentioned in the list of PHP services found in Section 1861(ff)(2) of the Social Security Act. One of the PHP

services cited in Section 1861(ff)(2) is “such other items and services as the Secretary may provide”. Do “other items and services” include initial and subsequent mental health evaluations and the development of treatment plans? What other items and services fall into this category? In what document has the Secretary specified which other items and services are considered to be PHP services?

ANSWER 1:

Mental health evaluations performed under the PHP plan of treatment that are reasonable and necessary may include the services of other practitioners in accordance with State law. However, initial mental health evaluations do not constitute covered services under the PHP benefit, regardless of whether the initial evaluation is performed by physicians, CPs, PAs or other practitioners in accordance with State law. Some types of initial evaluations may be covered under the diagnostic services provided under Medicare Part B. Diagnostic services that are reasonable and necessary can be covered under the PHP benefit once the individual has been certified by a physician to be eligible to participate. At this time, the Secretary has not designated any additional “other items and services” under the Medicare PHP benefit under section 1861(ff) of the Social Security Act.

QUESTION 2:

If initial and subsequent mental health evaluations and the development of treatment plans are considered PHP services, what types of practitioners are authorized to perform these services under the PHP benefit? Section 1861(ff)(1) of the Social Security Act states that a physician must prescribe PHP services and develop and review the treatment plan. Does this section mean that CPs and PAs cannot perform these services? If a practitioner other than a physician can perform these services, should the practitioner be supervised? If so, by whom?

ANSWER 2:

The first portion of the question is addressed in the response to question one. The PHP program must be prescribed by a physician and under a written plan of treatment established and periodically reviewed by a physician. As stated in the statutory language, the establishment and review of the plan of treatment may be in consultation with appropriate staff such as CPs or PAs participating in the PHP program.

QUESTION 3:

If initial and subsequent mental health evaluations and the development of treatment plans are not considered PHP services, are they paid in accordance with Part B coverage and payment rules? If so, are they billed to the intermediary or the carrier? Who does the billing?

ANSWER 3:

Initial mental health evaluations are not covered under the partial hospitalization benefit, as described in the response to question one. Any covered unbundled service is billed to the carrier (via the HCFA-1500 format). Any covered bundled PHP service is billed to the fiscal intermediary (via the HCFA-1450/UB-92 format).

QUESTION 4:

The passage from the Q&A document cited above states that psychological tests that are performed as a result of a SNF’s resident assessment are covered under Medicare’s diagnostic services benefit. Are these psychological tests part of the initial evaluation to determine the need for PHP services? If so,

should the entire initial evaluation be covered under the diagnostic services benefit? Should the psychological tests and the initial evaluation be treated as separate services for payment purposes?

ANSWER 4:

The tests could be part of the initial evaluation. Any elements of the evaluation that meet the applicable coverage requirements for diagnostic tests, or for the diagnostic services of a practitioner, can be covered. The “initial evaluation” is not necessarily a single service. If it is made up of elements that comprise separate service categories, coverage and payment for each element would be separately determined.

QUESTION 5:

Section 1861(ff)(1) of the Social Security Act requires that PHP services should be prescribed by a physician and provided under an individualized treatment plan established and periodically reviewed by a physician. The law does not specify whether the physician may be employed by the CMHC. It seems like a conflict of interest for a physician employed by a CMHC to prescribe PHP services and establish the treatment plan. A CMHC could determine that all or the majority of the patients it evaluates would need the PHP services that it provides. Can a physician employed by a CMHC perform the initial evaluation, prescribe PHP services and establish the treatment plan or should these services be performed by a physician not affiliated with the CMHC?

ANSWER 5:

The physician may be employed by the CMHC. The statutory provisions governing PHP do not restrict the employment status of the physician. In addition, the physician referral provisions in section 1877 of the Social Security Act do not restrict a physician’s relationship with a CMHC.

QUESTION 6:

We had previously been informed that when a CMHC provides PHP services offsite and the patients receive only one or two types of service, the services may not meet the definition of PHP services. How many and what types of mental health services must a patient receive to meet the definition of PHP SERVICES? Is this a judgment call by the intermediary?

ANSWER 6:

The determination of the amount and type of mental health services a patient must receive to meet the definition of PHP services is a currently a “judgement call” by the intermediary.

As previously discussed, however, SNFs would not ordinarily serve residents who require the intensive and sophisticated mental health services involved in providing active treatment for a psychiatric condition. Instead, SNFs usually serve residents with primarily medical rather than psychiatric conditions. A partial hospitalization program (PHP) for Medicare purposes is a comprehensive structured program that uses a multidisciplinary team to provide comprehensive coordinated services within an individual treatment plan to individuals diagnosed with one or more psychiatric disorders. Since most SNF residents would require mental health services (if at all) only at a less intensive level that is subordinate to their primary medical condition, they would not appear to be appropriate candidates for the PHP benefit.

Questions regarding this bulletin may be addressed to the Medicare Part A Customer Service Department by calling (904) 355-8899.