Department of Corrections

&

Department of Medical Assistance Services

As Directed by

Item 388 J

2013 Appropriation Act

Introduction

Item 388 J of the 2013 Appropriation Act directed the Department of Corrections (DOC) to coordinate with the Department of Medical Assistance Services (DMAS) and the Department of Social Services (DSS) to establish procedures to enroll eligible inmates in Medicaid. The Item further requires DOC and DMAS to provide a report on the implementation of this initiative and the expected cost savings to the Commonwealth by October 1, 2013. This document is intended to satisfy this reporting requirement.

Background

Under current Medicaid policy articulated by the federal Centers for Medicare and Medicaid Services (CMS), inmates of public institutions are categorically ineligible for coverage under Medicaid. However, CMS clarified this policy indicating that they are no longer "inmates of public institutions" when they are "inpatients of medical facilities", and therefore, federal Medicaid funding is available for the covered services provided while they are an inpatient of that facility.

DOC funds healthcare to its offenders through General Fund appropriation and provides hospital services outside of the institutions through a contract with a third party administrator (TPA). This contract allows DOC to pay medical providers a discounted rate of reimbursement which had an annual cost of $63 million in SFY 2013 of which $25.7 million is related to inpatient hospital services.

Under the policy clarification from CMS, Virginia can utilize Medicaid funding to offset some portion of what has been a pure General Fund cost of these inpatient hospital services for inmates. This approach has the potential to be financially beneficial to the Commonwealth because Medicaid is funded jointly by the states and the federal government. In Virginia, the normal matching rate is 50 percent, meaning for every dollar of Medicaid cost, one-half is borne by the federal government and one-half is borne by the Commonwealth. To the extent some inmates can access Medicaid funding to cover their inpatient hospitalization, the cost to the state would be cut approximately in half for that service to that inmate depending on the different reimbursement amounts paid by DOC and Medicaid for the same service. This new approach was implemented on July 1, 2013, as specified in the 2013 Appropriations Act.

It is important to note, as indicated above, that these costs can only be offset for inmates who are determined to be eligible for Medicaid at the point of their inpatient hospitalization. Existing eligibility rules apply; the only special treatment, so-to-speak, is the waiving of the inmate exclusion based on the CMS policy clarification. In other words, if the individual would not be eligible for coverage according to our existing coverage rules were they not incarcerated, they would not be eligible when they are an inmate during an inpatient hospitalization.

This is particularly important to understand in the context of inmates because existing coverage for non-disabled adults is only available for adults living with children (caretaker adults / parents), those above age 65, or for pregnant women. While some inmates may qualify under

these non-disabled adult categories and others may have already been determined to be disabled (and meet the other criteria for that coverage group), it is not expected that a significant percentage of the inmate population who utilize inpatient services will qualify for Medicaid coverage under the current rules. In SFY 2013 offender inpatient costs for the above age 65 group was $3.1 million and $245,545 for pregnant women.

To the extent the Commonwealth decides to expand Medicaid coverage under the Patient Protection and Affordable Care Act (Pub. L. 111-148), as amended by the Health Care and Education and Reconciliation Act of 2010 (Pub. L 111-152), such an expansion would increase the income eligibility of the caretaker adults / parents, but more significant for the inmate population, provide coverage for childless adults up to 133 percent of the federal poverty limit. Under that scenario, it is likely that the majority of the inmate population would be eligible for Medicaid coverage of their inpatient hospitalizations.

Eligibility Process

Applications for inmates who receive inpatient hospitalization are processed, for the most part, using the same requirements and time standards as all other Medicaid applicants. Eligible individuals must meet existing Medicaid criteria, but are only enrolled in Medicaid for the length of their inpatient hospital stay. The only differences in processing are:

- applications are filed and processed after the individual has completed his inpatient hospital stay; and
- applications are handled by only four local departments of social services (with proximity to DOC higher use health care providers):
    - Richmond City
    - Southampton County
    - Greensville/Emporia
    - Albemarle County

Upon completion of an inpatient hospital stay, the healthcare reimbursement staff at DOC screens the client for potential Medicaid eligibility based on information contained in DOC records. If the individual appears to meet a Medicaid covered group, then a Medicaid application will be initiated. The application will be sent to the facility where the inmate is housed for completion. The facility counselor reviews the application with the inmate, obtains any additional required information that is needed and obtains the inmate's signature. The completed application and any supporting documentation is then sent back to the DOC healthcare reimbursement staff for submission to the appropriate local department of social services.

The local department of social services will complete an eligibility determination to ensure that all non-financial and financial criteria are met. Entitlement for Medicaid for eligible individuals will begin on the date of admission to the hospital and end on the date of discharge. Once an eligibility period is established, additional requests for coverage of inpatient services within one year of the date of filing of the original application will not require a new Medicaid application.

However, each request for Medicaid coverage of an inpatient stay requires a review of the individual's financial eligibility.

A new form, the DOC Inpatient Hospitalization Referral, was created for this project. Section I is completed by DOC to identify the individual as an inmate and the dates of his inpatient hospitalization. Section II of the form is completed by the department of social services to notify DOC/inmate of the result of the eligibility determination. Section III notifies the provider of the individual's eligibility, enrollment period and Medicaid Identification Number. No Medicaid card will be issued to the inmate.

Claiming Process for Inpatient Reimbursement

DOC will utilize the current Anthem payment process for the charges related to the offender's initial hospital admission for dates of service July 1, 2013 and after. Upon receiving notification of the offender's approved Medicaid eligibility, DOC healthcare reimbursement staff will send Section III of the DOC Inpatient Hospitalization Referral to the hospital provider. The hospital will consider this document as notification to bill Medicaid. The provider will then follow applicable Medicaid billing requirements.

- Request approval from KePRO, Medicaid's service authorization contractor
- Submit claims to Medicaid with an approved KePRO service authorization
    - Option to appeal service authorization requests that result in a denial by KePRO
- Share the approved Medicaid Offender Inpatient Referral with all physicians rendering medical/surgical care/treatment during the offender's inpatient hospital admission

DOC healthcare reimbursement staff will provide the following claims assistance:

- Track the KePRO service authorization request
- With the KePRO service authorization approval, notify Anthem to retract the initial hospital admission claims payment
    - Should the KePRO service authorization be denied (an upheld by an appeal), Anthem payment will remain
- Utilizing the Medicaid claim subsystem, identify the Medicaid deductible and/or co-pay amounts indicated on the paid claims to determine the offender-responsible amount for DOC reimbursement.

DOC will include the offender's Medicaid number in the medical documentation presented for subsequent hospital admissions. This documentation will alert the hospital of the offender's prior approval for the Medicaid Offender Inpatient Hospital Program. The hospital will also consider this notice that the related hospital charges will be billed to Medicaid upon notification of the

offender's eligibility period approval and approval of the service authorization for the inpatient admission.

Cost Savings

Relative to the language in Item 388 J, the 2013 Appropriation Act reduced expenditures for inmate medical care at the Department of Corrections by approximately $2.7 million in General Funds for State Fiscal Year (SFY) 2014 and added administrative funding for one position to reflect this new initiative effective July 1, 2013. To fund the Medicaid impact, the 2013 Act transferred $1.29 million GF (and appropriated a like amount of federal matching funds) for SFY 2014 to DMAS. The net savings, therefore, was calculated to be approximately $1.3 million in General Funds for SFY 2014. While calculations have not yet been completed for the 2015-16 Biennium, we would expect that the 2014 amounts represent approximately three-quarters of a typical year (not a full year, due to the lag in service dates to billing, which would only be relevant in 2014, the start-up year). To the extent Medicaid is expanded as explained earlier in this document, the estimate would change considerably.

Challenges

I. Co-pays

DOC currently has no offender co-pays for inpatient hospital or inpatient physician services. As required under existing Medicaid rules, approved Offender Medicaid Program members will (generally)[1] be responsible for a $100 co-pay per non-emergent inpatient hospital admission and $3 co-pay per billable physician service while an inpatient. While further analysis must be done, the Commonwealth may need legislation to address the offenders' co-pay requirements, and the additional funds to pay for these co-pays associated with Medicaid services provided to Offenders. [1] Note: Medicaid does not have co-pays or deductibles for services related to emergency services, pregnancy or delivery, or individuals under the age of 21.

II. Signatory Authority (Budget Amendment)

In order for correctional jurisdictions to apply for federal or state entitlement reimbursement should the offender be unable or unwilling to give consent, the correctional jurisdiction shall have signatory authority to pursue such entitlements reimbursement for any offender's expenses.

III. Health Care Providers

Although early in the transition to Medicaid inpatient reimbursement, health care providers have expressed administrative concerns with this initiative. They believe that their internal processes to comply with this initiative will be convoluted and cumbersome.

Conclusion

The Departments of Corrections, Medical Assistance Services, and Social Services have collaborated to establish procedures to enroll eligible inmates for Medicaid coverage of inpatient hospitalizations as directed under the 2013 Appropriation Act. The program became operational on July 1, 2013 and, as such, it is too early to assess the success of the effort related to inmate enrollment and provider claiming. We have, however, identified some challenges that could be addressed to improve the operation and efficiency of the program as articulated in this report. We will continue to evolve the program as experience is gained and input is received from all partners, including the provider community.