

CMCS Informational Bulletin

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SUBJECT: **State Guidance for Implementation of the Treatment for Infants with Neonatal Abstinence Syndrome in Residential Pediatric Recovery Centers provisions of Section 1007 of Pub. L. 115-271, the *Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act.***

This Informational Bulletin (Bulletin) provides clarification to states about section 1007 of the Substance Use-Disorder Prevention that Promoted Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act, entitled “Caring Recovery for Infants and Babies,” which added a new section 1902(a)(86) to the Social Security Act (Act) to add an optional provider type of “residential pediatric recovery center” (RPRC) for treatment of infants with Neonatal Abstinence Syndrome (NAS) without any other significant medical risk factors.

Background

Prior to the passage of the SUPPORT for Patients and Communities Act, CMS issued a prior Bulletin addressing “Neonatal Abstinence Syndrome: A Critical Role for Medicaid in the Care of Infants.”¹ In this prior Bulletin, CMS discussed the complex condition of NAS, NAS Diagnosis and Treatment, Medicaid Coverage for NAS Treatment for Infants as well as their Mothers, and Potential Payment Options for these Services.

NAS is a constellation of symptoms in newborn infants exposed to any of a variety of substances in utero, including opioids. Clinically significant neo-natal withdrawal most commonly results from exposure to opioids, but symptoms of neonatal withdrawal have also been noted in infants exposed to antidepressants, anxiolytics, and other non-opioids. NAS is not characterized as an addiction or substance use disorder; rather, it is a medical condition resulting in a physiologic response to the infant’s exposure to cessation of the opioid or other substance the mother was using.²

Section 1007 of the SUPPORT for Patients and Communities Act, entitled “Caring Recovery for Infants and Babies,” added a new section 1902(a)(86) to the Social Security Act (Act) to add an optional provider type, “residential pediatric recovery center,” defined as “a center or facility that

¹ <https://www.medicare.gov/federal-policy-guidance/downloads/cib060818.pdf>

² <https://www.medicare.gov/federal-policy-guidance/downloads/cib060818.pdf>

furnishes items and services for which medical assistance is available under the state plan to infants with the diagnosis of neonatal abstinence syndrome without any other significant medical risk factors.”³

In addition, a RPRC “may offer counseling and other services to mothers (and other appropriate family members and caretakers) of infants receiving treatment at such centers if such services are otherwise covered under the State plan under this title or under a waiver of such plan. Such other services may include (A) Counseling or referrals for services, (B) Activities to encourage caregiver-infant bonding, and (C) Training on caring for such infants.”⁴

Impact of the Newly Defined Residential Pediatric Recovery Center

Infants with NAS have traditionally been treated in hospital inpatient settings, often with lengthy stays. As the number of infants born with NAS continues to rise,⁵ states are increasingly utilizing NAS treatment settings outside of inpatient hospital settings to provide treatment to these infants and their appropriate caretakers. Included in these treatment settings are RPRCs, as newly defined by section 1007 of the SUPPORT for Patients and Communities Act.

RPRCs may treat infants with less severe NAS or care for infants with NAS who are not medically stable and ready to go home, but who are stable enough to transfer to a lower level of care and can be safely discharged from the hospital. Section 1007 of the SUPPORT for Patients and Communities Act defines a RPRC is a “center or facility that furnishes items and services for which medical assistance is available under the State plan to infants with the diagnosis of neonatal abstinence syndrome without any other significant medical risk factors.”⁶

Under current Medicaid law, medical assistance payment for room and board is only available with respect to the facilities that provide Medicaid-covered, institutionally-based, benefits: nursing facilities, inpatient hospitals, psychiatric hospitals for individuals under age 21, institutions for mental diseases for individuals age 65 or older that otherwise would qualify as an inpatient setting, and intermediate care facilities for individuals with intellectual disabilities that also meet certain federal standards and conditions of participation requirements prescribed by the Secretary. Thus, a RPRC would only be able to receive a Medicaid payment for room and board if the RPRC furnishes services under one of these benefits and meets the applicable requirements.

However, the Medicaid covered services delivered by providers furnishing items and services in a RPRC that is not one of these facilities may be appropriately covered and paid under a variety of Medicaid state plan benefits. Determination and enforcement of any licensing or certification standards for RPRCs will lie within the states’ sole purview.

³ Section 1902(pp)(1) of the Act.

⁴ Section 1902(pp)(2) of the Act.

⁵ Dramatic Increase in Maternal Opioid Use Disorder and Neonatal Abstinence Syndrome, National Institute on Drug Abuse; National Institutes of Health; U.S. Department of Health and Human Services 2019

<https://www.drugabuse.gov/related-topics/trends-statistics/infographics/dramatic-increases-in-maternal-opioid-use-neonatal-abstinence-syndrome>

⁶ Section 1902(pp)(1) of the Act.

For infants with NAS, specific services may include, but are not limited to, assessments, development of care plans, swaddling, feeding, and specialized care of the infants. These services may be covered under a variety of Medicaid state plan benefits provided they meet the requirements for the benefit under which the services are provided. Potential benefit categories include, but are not necessarily limited to, physicians' services; services provided by other licensed practitioners; physical and occupational therapies; speech, hearing and language disorder services; respiratory care services; diagnostic and rehabilitative services; prescription drugs; non-emergency transportation to medical care; and case management.

States have significant flexibility in how they may pay for services for treating infants with NAS. A state may pay providers for medically necessary Medicaid state plan services provided to infants with NAS who are receiving services in the hospital or other facility setting, in a RPRC, or at home and recognize the varied costs of providing care based on the service location or the severity of need. States may also pay for individually covered services or, if determined as a more efficient payment method, may develop bundled rates for services provided to infants by providers like RPRCs. In addition, states may develop methodologies that offer incentives for improved outcomes and quality care.

Inclusion of Mothers, Appropriate Family Members, and Caretakers

Section 1007 of the SUPPORT for Patients and Communities Act permits RPRCs to offer certain services to mothers and other appropriate family members and caretakers that are for the benefit of infants receiving treatment at RPRCs if the services are otherwise covered under the state plan (or a waiver of the state plan). These services may include counseling or referrals for services, activities to encourage caregiver-infant bonding, and training on caring for infants with NAS.⁷ Medicaid-covered services are only available to Medicaid-eligible individuals. CMS has previously stated in a Bulletin, however, that whether or not a mother is Medicaid eligible, she may receive some benefit from certain services that are for the direct benefit of the child and directed at treating and promoting the health of the child to reduce or treat the effects of the mother's condition on the child.⁸

The medical literature supports the importance of the involvement of mothers and their physical interaction with the newborns during treatment for NAS.⁹ Supporting the mother and other appropriate family members and caretakers alongside the infants provides a direct benefit to the infant, by encouraging the future caretakers to learn and practice specialized strategies to comfort and assist an infant with NAS, which would benefit the infant throughout all phases of treatment.¹⁰

For these services to a mother, family member, or caretaker who is not Medicaid eligible to be covered, the therapeutic interventions must be for the direct benefit of the infant, meaning the services must actively involve the infant, be directly related to the individualized needs of the

⁷ Section 1902(pp)(2) of the Act

⁸ Maternal Depression Screening and Treatment: A Critical Role for Medicaid in the Care of Mothers and Children <https://www.medicaid.gov/federal-policy-guidance/downloads/cib051116.pdf>

⁹ <https://www.medicaid.gov/federal-policy-guidance/downloads/cib060818.pdf>

¹⁰ <https://www.medicaid.gov/federal-policy-guidance/downloads/cib060818.pdf>

infant and be delivered to the infant and mother together. Finally, the services must be covered under a benefit in section 1905(a) of the Act (e.g. medical or remedial services provided by a physician or other licensed practitioner) or pursuant to a waiver of such plan. In such cases, services that involve a non-Medicaid eligible mother or appropriate family member and caretaker may be billed by the RPRCs for the infant, and claimed by the state as a direct service to the infant.

State Process for SPA Submission

States may need to make changes to their Medicaid state plans through a SPA submission in order to recognize RPRCs as a provider type and, as necessary, update their payment methodologies to describe differences in payments to the RPRCs. To the extent a state chooses to pay for covered services provided within RPRCs differently from other provider types, the state will need to issue a public notice and amend the state plan to comprehensively describe the payment methodology. As with any SPA submission, CMS will request information on the source of non-federal share of the service payments and information on the rate setting methodology. Specific guidance related to SPA submission procedures, including guidance on developing comprehensive methodologies and bundled rates, may be found on Medicaid.gov: <https://www.medicaid.gov/state-resource-center/spa-and-1915-waiver-processing/medicaid-spa-toolkit/index.html>.

Conclusion

Infants experiencing symptoms of NAS are particularly vulnerable medically, as they are experiencing withdrawal from powerful opioids. They require access to treatment that incorporates the best evidence-based practices, and involves their mothers and families to the greatest extent possible, to help them withdraw from exposure to opioids in utero and to lead healthier lives. Section 1007 of the SUPPORT for Patients and Communities Act provides a new optional provider type, RPRCs, for delivery of this critical treatment to infants with NAS. CMS is available to work with states as needed in order to reach these goals. For additional information about this Informational Bulletin, or for states requesting technical assistance, please contact Kirsten Jensen, Director, Division of Benefits and Coverage at Kirsten.Jensen@cms.hhs.gov.