



September 11, 2023

Ms. Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
Attention: CMS-2439-P
PO Box 8016
Baltimore, MD 21244-8016

Re: Medicare Programs; Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems; CMS –1786–P

Dear Administrator Brooks-LaSure:

The Association for Behavioral Health and Wellness (ABHW) appreciates the opportunity to submit comments on the Centers for Medicare & Medicaid Services (CMS) Notice of Proposed Rulemaking (NPRM or proposed rule) for the Medicare Programs: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems (OPPS) Intensive Outpatient Program (IOP) provisions.

ABHW is the national voice for payers managing behavioral health insurance benefits. ABHW member companies provide coverage to approximately 200 million people in the public and private sectors to treat mental health (MH), substance use disorders (SUDs), and other behaviors that impact health and wellness.

Our organization aims to increase access, drive integration, support prevention, raise awareness, reduce stigma, and advance evidence-based treatment and quality outcomes. Furthermore, through our policy work, we strive to promote equal access to quality treatment and address the stark inequities created by systemic racism. We are deeply concerned about health disparities in MH and SUD services in this country and are committed to promoting health equity in the healthcare system.

In 2022, the American Journal of Preventative Medicine reported that roughly 1.7 million Medicare beneficiaries had a SUD¹. Yet only 11% of those with an SUD received treatment. Adopting IOP in Medicare will help ensure patients receive a timely, appropriate level of care.

I. Intensive Outpatient Programs

¹ [American Journal of Preventive Medicine](#), August 2022.

ABHW is grateful that CMS proposes expanding coverage of IOPs as an intermediate level of behavioral health care under Medicare. This proposal will help grant Medicare beneficiaries more access to the entire continuum of behavioral health care. An IOP is a distinct and organized outpatient program of psychiatric services provided for individuals with an acute mental illness or SUD, consisting of a specified group of behavioral health services paid on a per diem basis under the OPPs or other applicable payment systems. Studies have collectively shown that IOP programs improve abstinence rates, reduce SUD symptom severity, and decrease the frequency of substance use.² They also address depression, eating disorders, or other behavioral health illnesses that do not require detoxification or round-the-clock supervision. Patients can receive intensive treatment while residing in their homes. These services are for patients with a lower risk of withdrawal and less symptom severity than those in residential settings and do not require a 24-hour structured environment. Patients in IOP treatment often use local community services and mutual support groups outside the program. After completing IOP treatment, these services remain intact, easing the transition into the subsequent recovery phase.

ABHW believes it is essential for Medicare to establish another step for people transitioning from residential treatment to community-based services. Currently, there is a coverage gap when Medicare patients require services more frequent than individual outpatient therapy visits but less intensive than a partial hospitalization program.³ This proposal will allow providers to use IOPs to help step down patients from an inpatient setting or step up for patients in a traditional outpatient setting.

The option for IOPs will also help CMS manage Medicare costs. It is more effective to treat patients in an IOP setting than an inpatient setting on a per diem basis. IOPs tend to cost less than the inpatient alternative. For example, the mean cost of a mental health inpatient stay was \$7,100 in 2016,⁴ compared to the average cost of IOP treatment, which is between \$250 and \$350 per day.⁵ Furthermore, using IOP services will likely prevent inpatient stays and emergency visits.

IOP Physician Recertification

IOPs must be furnished following a physician’s certification and plan of care. The proposed rule requires that a physician determine that each patient needs a minimum of nine hours of IOP services per week, and this determination must occur at least every other month. **ABHW believes requiring a recertification every other month is arbitrary and will create unnecessary administrative burdens. Instead, we recommend that a redetermination should occur when it is clinically necessary according to the treatment plan, such as when there is a new episode of care.**

nce/article/abs/pii/S0749379722001040" \l":~:text=Approximately%201.7%20million%20Medicare%20beneficiaries,%25%20aged%20%E2%89%A565%20years).⁴"[American Journal of Preventive Medicine](https://hcup-us.ahrq.gov/reports/statbriefs/sb249-Mental-Substance-Use-Disorder-Hospital-Stays-2016.pdf), August 2022.
⁵ [https://hcup-us.ahrq.gov/reports/statbriefs/sb249-Mental-Substance-Use-Disorder-Hospital-Stays-2016.pdf](https://americanaddictioncenters.org/intensive-outpatient-programs/cost)
⁵ American Addiction Centers, updated June 29, 2023, available at <https://americanaddictioncenters.org/intensive-outpatient-programs/cost>

IOP in Outpatient Treatment Programs (OTPs)

ABHW is strongly supportive of establishing IOPS in OTPs. The proposal will cover IOP services provided by OTPs if each service is medically reasonable and necessary and not duplicative of any service paid for under any bundled payments billed for an episode of care each week. For an OTP to receive the additional payment adjustment for IOP services, a physician must certify that the beneficiary requires a higher level of care intensity than existing OTP services and that the certification, plan of care, and all other applicable requirements are met.

Furthermore, as was discussed in ABHW's Calendar Year 2024 Physician Fee Schedule letter, we urge CMS to broaden the list of eligible provider types permitted to furnish IOP services under Medicare. This is critical given the well-known demand for behavioral health services of all types and access challenges patients face in obtaining care. There are existing IOPs licensed and operating under state law that provide these programs and services which are not hospitals, Community Mental Health Centers (CMHCs), Federally Qualified Health Centers (FQHCs), Rural Health Centers (RHCs), or Outpatient Treatment Programs (OTP). We urge CMS not to preclude the access of Medicare beneficiaries to these other types of providers and IOP programs.

II. Payment for Partial Hospitalization and Intensive Outpatient Services - Terminology

The 4th edition of the American Society of Addiction Medicine (ASAM) treatment criteria and guidelines with respect to SUD treatment notes that "partial hospitalization" will be replaced with the term "high-intensity outpatient." **We urge CMS to consider adopting this terminology for SUD partial hospitalization services to align with the widely used ASAM treatment criteria and guidelines.**

Thank you for the opportunity to comment on the behavioral health provisions in the CY24 OPSS. ABHW is committed to working with CMS and other partners to improve access to behavioral health treatment for all Americans. If you have questions, please contact Kathryn Cohen, Senior Director of Regulatory Affairs, at cohen@abhw.org.

Sincerely,



Pamela Greenberg, M.P.P.
President and CEO