ASIPP® FACT SHEET 2019

Payment Issues Related to Dual Eligible Beneficiaries Under Medicare and Medicaid

KEY POINTS

1. Medicare recipients who are also eligible to receive Medicaid, are described as dual eligible beneficiaries. These beneficiaries include those enrolled in Medicare Part A and Part B who receive full Medicare benefits and/or assistance with Medicare premiums or cost-sharing through the Qualified Medicare Beneficiary program, the Specified Low-income Medicare Beneficiary program, the Qualified Individual Program, or the Qualified Disabled Working Individual program.
2. Multiple prohibitions on billing dual eligible beneficiaries apply to providers with Federal Law prohibiting all Medicare providers from billing QMBs for all Medicare deductibles, co-insurance payments, or co-payments.
3. State Medicaid agencies have legal obligations to pay Medicare cost-sharing for most dual eligibles. The majority of the dual eligible patients with Medicare and Medicaid may not have access to interventional pain management physicians and procedures due to onerous reimbursement policies. This is estimated to be 20% of the Medicare population and an overwhelming majority of the dual eligible population.

REQUESTED ACTIONS

It is time for Congress to balance cost-sharing payments in order to provide appropriate access to care, help reverse the opioid epidemic, and save states money.

Dual Eligibility

Dual eligible beneficiaries "generally describes beneficiaries eligible for both Medicare and Medicaid." The term includes beneficiaries enrolled in Medicare Part A and Part B who receive full Medicaid benefits and/or assistance with Medicare premiums or cost-sharing through one of the following Medicare savings MSP categories:

1. Qualified Medicare Beneficiary (QMB) program: Helps pay premiums, deductible, co-insurance, and co-payments for Part A, Part B, or both programs.
2. Specified Low Income Medicare Beneficiary (SLMB) program: Helps pay Part B premiums.
3. Qualified Individual (QI) program: Helps pay Part B premiums.
4. Qualified Disabled Working Individual (QDWI) program: Pays the Part A premium for certain disabled and working beneficiaries.

Issues

Lack of appropriate services for dual eligible individuals will exacerbate the opioid epidemic.

Interventional Pain Management Present Status

Interventional pain management techniques are minimally invasive procedures including, percutaneous precision needle placement, with placement of drugs in targeted areas or ablation of targeted nerves; and some surgical techniques such as laser or endoscopic diskectomy, intrathecal infusion pumps and spinal cord stimulators, for the diagnosis and management of chronic, persistent or intractable pain.

Currently, the roles of interventional pain management and interventional techniques continue to decline, as the opioid epidemic escalates. The Best Practices Interagency Task Force report has emphasized the importance of interventional technique. **Figure 1** shows the escalation in opioid death with the quantification of opioid death causes. Sixty-three percent of all opioid deaths also involved various other drugs such as cocaine, benzodiazepines, and methamphetamines.

Benefits and Qualifications

Multiple prohibitions apply to providers when billing dual eligible beneficiaries. Federal law, as modified by Section 4714 of the Balanced Budget Act of 1997 PROHIBITS ALL Medicare Providers from billing QMBs for all Medicare deductibles, coinsurance, or copayments. All Medicare and Medicaid payments providers receive for furnishing services to a QMB are considered as payment in full. Providers are subject to sanctions if they bill a QMB for amounts above the total of Medicare and Medicaid payments (even when Medicaid pays nothing).

Medicare remittance indicates if a beneficiary is a QMB and shows that the beneficiaries' responsibilities for deductibles, copayments, and coinsurance cost-sharing is $0.

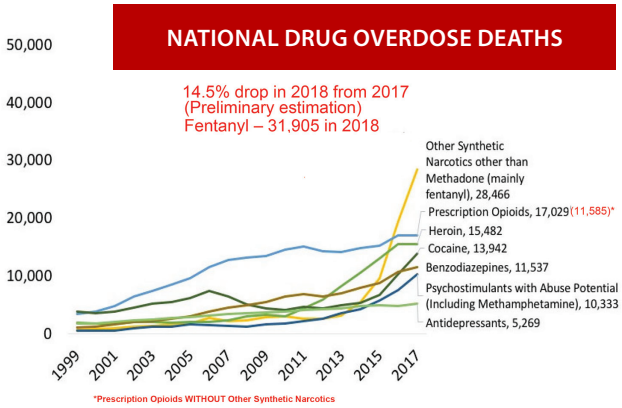

Fig. 1. The Opioid Epidemic

Role of States

State Medicaid agencies have "legal obligations to pay Medicare cost sharing for most dual eligible," Medicare beneficiaries who are also Medicaid-eligible.

Further, most dual eligibles are excused, by law, from paying Medicare cost-sharing, and providers are prohibited from charging them, but the particulars are complex in traditional Medicare and become even more complex when a dual eligible is enrolled in a Medicare Advantage (MA) plan.

AMERICAN SOCIETY OF INTERVENTIONAL PAIN PHYSICIANS (ASIPP)
NORTH AMERICAN NEUROMODULATION SOCIETY (NANS)
SOCIETY OF INTERVENTIONAL PAIN MANAGEMENT SURGERY CENTERS(SIPMS)

Payment Issues Related to Dual Eligible Beneficiaries Under Medicare and Medicaid *(continued)*

Issues Related to Dual Eligibles

1. For qualified Medicare beneficiaries, all cost-sharing (premiums, deductibles, coinsurance, and copayments) related to Parts A and B are excused, meaning that the state picks up the obligations. The state has the responsibility for these payments for QMBs regardless of whether the particular service is also a Medicaid-covered service. States can, but are not required to, pay premiums for MA plans, basic and supplemental benefits. As shown in Table 1, the balance billing is prohibited for QMBs.
2. For non-QMB dual eligibles, the states obligation, according to guidance issued by CMS in 2007, is to pay up to the Medicaid rate for Medicaid services, "rendered by Medicaid providers in excess of any third party liability." In other words, states "do not have to pay if the Medicare service is not also a Medicaid service, or if the beneficiary saw a Medicare provider who is not also a Medicaid provider."

In addition to the above obligation, the Medicaid statute authorizes – but does not require – states to provide Medicare cost-sharing for at least some non-QMB dual eligibles. It appears from the language of the statute that such payment could include cost-sharing for services not covered by the state Medicaid program. This has led many physicians to NOT treat patients on Medicare who are dual eligible.

It also appears that under managed care contracts, states continue to pay a premium for all dual eligibles whether the managed care organizations pay the 20% or not.

These practices reduce patient access to many services.

In interventional pain management, due to significant reductions in payments, 20% may translate to a lack of provision of services. For a specific example, implantable services cost above the contracted rate in both hospital outpatient department settings and in ambulatory surgery center settings, triggering an avoidance of care for these patients.

This also promotes the growth of the opioid epidemic as it reduces non-opioid techniques for managing pain (shown in Figure 1).

MACPAC Report - A Misunderstanding

The Medicaid and CHIP Payment and Access Commission (MACPAC) is a nonpartisan legislative branch agency that provides policy and data analysis, and makes recommendations to Congress and the administration. Unfortunately, the MACPAC report of January 2017 is based on the completed Medicare and Medicaid claims data of 2012. Numerous changes have occurred since 2012 with almost all Medicaid markets being provided by managed care organizations.

About 20% of Medicare beneficiaries are also eligible for Medicaid. About 20% of Medicare beneficiaries fall into a dual eligible category. Similarly, over 30% of Medicare beneficiaries are included in Medicare Advantage plans. Many of the dual eligible individuals are receiving care for chronic illnesses and suffer with multiple disabilities.

Adverse Impact on Beneficiaries

The present system, with its abuses and the profit motives of both Medicare Advantage plans and Medicaid Managed Care plans, is impacting beneficiaries adversely, while costing the Medicare program the same or more.

Providers may not be able to serve dual eligible beneficiaries due to the costs of providing the services, which often exceeds the reimbursement, and in many cases utilizes expensive equipment.

Consequently, dual eligible beneficiaries will have greater difficulty getting access to needed health care.

Benefits & Qualifications	Description
Benefits:	• Medicaid pays Part A (if any) and Part B premiums. • Medicaid may pay deductibles, coinsurance, and copayments for Medicare services furnished by Medicare providers consistent with the Medicaid State Plans (even if the Medicaid State Plan pyament is unavailable for these charges, the QMB is not liable for them)
Qualifications	• Income may be up to 100% of the Federal Poverty Level (FPL) • Resources must be no more than 3 times the SSI resource limit, adjusted annually according to Consumer Price Index (CPI) increase. • To qualify as a QMB Only, the beneficiary must be enrolled in Part A (or if uninsured for Part A, have filed for premium Part A on a conditional basis).

ABOUT ASIPP, NANS, AND SIPMS

The American Society of Interventional Pain Physicians (ASIPP) is a not-for-profit professional organization founded in 1998 which now comprises over 4,500 interventional pain physicians and other practitioners who are dedicated to ensuring safe, appropriate and equal access to essential pain management services for patients across the country suffering with chronic and acute pain.

The North American Neuromodulation Society (NANS) is a 1600-member multidisciplinary medical specialty society founded in 1994 and dedicated to the field of neuromodulation.

The Society of Interventional Pain Management Surgery Centers (SIPMS) is a national organization devoted exclusively to the issues of providing Interventional Pain Management procedures in the Ambulatory Surgery Center (ASC) setting.

If you have any questions, please feel free to contact us one of us: Laxmaiah Manchikanti, MD, at **drm@asipp.org**; Amol Soin, MD at **ohiopainclinic@gmail.com**; Tim Hutchinson at hutchinsont@gtlaw.com; Monica Prahl Schulteis at **schulteism@gtlaw.com**; Ed Whitfield at **ewhitfield@farragutpartners.com**; Jeff Mortier at jmortier@rmvbllp.com; or Jeff MacKinnon at **jmackinnon@rmvbllp.com**.