ADAP and Medicaid Back-Billing

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ADAP as payer of last resort

Per Section 2617(b)(7)(F) of the Ryan White HIV/AIDS Treatment Act of 2009, AIDS Drug Assistance Programs (ADAP) are legislatively required to ensure they are payer of last resort.

> *F) the State will ensure that grant funds are not utilized to make payments for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to that item or service—*
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> > *(i) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or*
> >
> > *(ii) by an entity that provides health services on a prepaid basis (except for a program administered by or providing the services of the Indian Health Service).*

ADAPs fulfill this mandate by coordinating eligibility screening with other health care payers (e.g. Medicaid, Medicare, Qualified Health Plans (QHPs), employer-sponsored insurance) and by recouping or back-billing any ADAP funds used to pay for a client service for which the other payer is liable.

HIV/AIDS Bureau (HAB) Policy Clarification Notice (PCN) 13-01, "Clarifications Regarding Medicaid-Eligible Clients and Coverage of Services by the Ryan White HIV/AIDS Program" provides additional background and guidance on the need for coordination between ADAP (as a RWHAP-funded program) and Medicaid.

Medicaid Back-billing

ADAPs must ensure that all other potential payer sources, including Medicaid, are identified for individuals applying for and receiving services through ADAP, and that those payers are billed for services prior to ADAP. Through the eligibility screening process (including annual and semi-annual recertifications), it may be determined that an ADAP client is eligible for Medicaid retroactively. ADAP can back-bill Medicaid for services delivered by the ADAP during the retroactive Medicaid eligibility period defined under Title XIX of the Social Security Act, Section 1902 (a) (34). This is defined as three months prior to the Medicaid application date if the individual would have been eligible during that period had he or she applied. Medicaid claims can be filed for a period of time after the service date, ranging from three to twelve months depending on

Medicaid rules in the state or territory. Obtaining reimbursement from Medicaid for ADAP clients requires coordination between the two programs.

The following scenarios feature some ways ADAPs may coordinate with Medicaid to recoup funding. ADAPs can vary in their structure and process, so multiple methods of conducting Medicaid back-billing are possible. "Real world" examples are informed by interviews with select ADAPs. These illustrate some of the available options. Please note: these examples are not mutually exclusive and do not represent the totality of approaches to Medicaid back-billing; they do, however, demonstrate common processes and policies seen across ADAPs.

ADAPs "housed" within Medicaid

- Claims that were paid by ADAP during the retroactive coverage period can be automatically debited from Medicaid and credited to ADAP.

- **Example:** A state uses the same Pharmacy Benefits Manager (PBM) as Medicaid, although the two programs are not housed together. If ADAP initially covers the cost of medications but a Medicaid retroactive eligibility date includes that date of ADAP coverage, then claims are adjusted to ensure Medicaid is the payer.

ADAPs contracting with a PBM which handles the Medicaid back-billing process

- In some states, PBMs manage the dispensing of medications for an ADAP's uninsured population.

- Those ADAPs that contractually require their PBM to back-bill Medicaid forward the names of clients who have recently become eligible for retroactive Medicaid benefits to the PBM.

- The PBM then bills Medicaid for claims processed during the retroactive Medicaid coverage period, Medicaid reimburses the PBM at the actual acquisition cost of the drug, which in turn credits those dollars back to the ADAP.

- **Example:** A state contracts with a PBM that serves as the only medication dispensary for ADAP, streamlining the back-billing to only one Medicaid provider. While the PBM ships most medications directly to clients, some medications are shipped to local retail pharmacies who agree to distribute medications the PBM has dispensed. As the only dispensary, the PBM is able to manage all Medicaid back-billing claims, and reconcile their medication stock. The PBM uses a virtual inventory system, and is able to credit ADAP medication costs back to ADAP as Medicaid reimbursement is obtained.

- **Example:** Another state contracts with a PBM that proactively coordinates the back-billing process with a large network of pharmacies. As the state identifies

Medicaid-covered clients, the PBM has the pharmacies reverse claims for ADAP medications that were previously dispensed for these clients. Those pharmacies must then file Medicaid claims to obtain reimbursement for those previously dispensed medications. The ADAP is able to immediately reconcile ADAP inventory and eliminate the wait time for Medicaid claims processing.

ADAPs using central state pharmacies

- Some states use a "central" state pharmacy to dispense ADAP medications.
- Those ADAPs forward the names of clients who have become eligible for retroactive Medicaid to the central pharmacy.
- The central pharmacy bills Medicaid for claims processed during the retroactive Medicaid coverage period and is reimbursed the actual acquisition cost of the drug, which is credited pack to the ADAP.
- **Example:** A state uses one central state-funded pharmacy to purchase and dispense ADAP medications, and benefits from being housed within the same part of the health department. As ADAP identifies Medicaid-covered clients, retroactive Medicaid claims are electronically filed by the central pharmacy and the pharmacy system is updated to prevent future dispending of ADAP medications for covered clients. ADAP issues letters to clients guiding them to use their Medicaid, with ADAP and the pharmacy coordinating efforts if clients continue to attempt accessing ADAP medications. ADAP and the state pharmacy are within the same organizational branch of the state's health department, reducing any potential barriers with communicating and coordinating data and activities.

ADAPs using contract pharmacies

- Although an ADAP may not have direct access to Medicaid eligibility information (unless establishing an agreement with Medicaid), ADAP clients that become eligible for Medicaid can be identified by case managers or other Ryan White providers through the service eligibility determination process.
- Case managers or providers can inform the ADAP of these changes in program eligibility, and the ADAP forwards this information to the contract pharmacy, which back-bills Medicaid at the actual acquisition cost of the drug on behalf of the ADAP.
- **Example:** A state notifies their contract pharmacy of retroactive Medicaid eligibility (determined during annual and six-month recertification, as well as identified by case managers), and the contract pharmacy processes Medicaid claims for those eligible time periods where ADAP medications were dispensed.

Tracking of 340B and non-340B stock is critical, and the contract pharmacy maintains a physically separated medication inventory. The stock is reconciled to account for the new Medicaid charges and previously dispensed ADAP medications, and a reconciliation spreadsheet is reviewed by ADAP staff at least monthly.

Identifying Medicaid eligibility

Once a system is in place to properly back-bill Medicaid, the process requires minimal staff time and resources.

Some ADAPs, such as those housed within Medicaid programs or those that have instituted formal data sharing agreements, have direct access to daily Medicaid eligibility and prescription records. Other ADAPs have access to online or telephone-based eligibility verification systems as a provider. This information is typically accessed using the ADAP's National Provider Identifier (NPI), or the NPI of a contracting pharmacy dispensing on behalf of ADAP.

Automated systems that review Medicaid eligibility of ADAP clients and retroactively bill require less staff resources and are most cost-effective. However, many ADAPs use a combination of manual and electronic methods. For example, some ADAPs may have the ability to electronically complete and file Medicaid claims but require staff to determine clients' Medicaid eligibility, while other programs are able to match ADAP and Medicaid eligibility records electronically but must direct more administrative resources to completing and filing claims. ADAPs should carefully assess the cost-effectiveness of their back-billing system, including the frequency of the process (i.e., weekly, monthly, or quarterly) needed to capture reimbursements within the allowable filing time after the service date.

The following "real world" examples are informed by interviews with select ADAPs and illustrate Medicaid eligibility determination methods:

- **Example:** A state conducts twice-weekly electronic matches between all ADAP clients and Medicaid through a custom-programmed data system that directly accesses Medicaid eligibility information. Matching is done during off hours to prevent disruptions and delays to the ADAP and Medicaid systems. Clients found to have Medicaid are deactivated from ADAP and issued letters guiding them to use Medicaid for services. If a client tries to use their ADAP card to obtain medications at a pharmacy, the pharmacist is electronically notified that the client has another payer source and bills the other source for current and future medication dispensing. ADAP enrolls individuals who are awaiting a Medicaid eligibility determination and back-bills Medicaid for medications dispensed during the retroactive eligibility period.

- **Example:** Another state conducting electronic matches with Medicaid extends this activity to all clients receiving any Ryan White Part B service. All Ryan White clients are matched to Medicaid at every ADAP eligibility certification and recertification, every medication dispense, and then every thirty (30) days to capture any clients receiving Part B services who may not access ADAP services. Inclusion of all clients receiving Ryan White Part B services in this process ensures payer of last resort compliance across the program.

- **Example:** Not all states have the resources or capacity to develop sophisticated data matching systems between ADAP and Medicaid. One state invests funds into an administrative support position who manually matches clients on a monthly basis who were dispensed ADAP medications from the state pharmacy through an online Medicaid eligibility portal available to Medicaid providers. That position also prepares Medicaid claims for identified Medicaid-covered clients and coordinates submission with the pharmacy. Work activity and funds recouped are carefully tracked to ensure the costs remain in line with the benefits of the position.

Avoiding duplicate discounts

To avoid duplication of discounts or rebates, ADAPs must provide the Office of Pharmacy Affairs (OPA) with their NPI through their ADAP 340B profile. OPA forwards this information to the Centers for Medicare and Medicaid Services (CMS), which then informs the state Medicaid program. The state Medicaid program sets up separate "exclusion" files for the ADAP (and other 340B-covered entities in the state that bill Medicaid) and will not include data from these entities on the Medicaid rebate bills they submit to pharmaceutical manufacturers. The ADAP may only back-bill Medicaid for the actual acquisition cost of the drug (i.e., what the drug actually cost the ADAP), plus a dispensing fee that is determined by the Medicaid program. In this way, the cost savings that the ADAP realized by purchasing the drug through the 340B program are passed onto Medicaid. The same statutory requirement applies to those states that choose the rebate option as a means of accessing the 340B drug pricing program.

If you need further information: Establishing and maintaining an efficient and cost-effective Medicaid back-billing process is important for every ADAP, and is one part of meeting "payer of last resort" requirements. ADAPs have adapted the process to work within the unique structure of their program and Medicaid within their state or territory. For more information, contact NASTAD's Health Care Access team (e-mail Sean Dickson at sdickson@NASTAD.org or Amanda Bowes at abowes@NASTAD.org).

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