Update on Chapter 257 and HIV/AIDS service codes

Dear Members:

As you know, the Commonwealth has been in the process of setting prospective unit rates for its contracted services in accordance with Chapter 257 of the Acts of 2008. As you may also know, several of the trade associations brought a lawsuit against EOHHS because the agency was not meeting the deadlines for setting rates as set forth in Chapter 257 -- Massachusetts Council of Human Service Providers, Inc., et al. v. Secretary of the Executive Office of Health and Human Services, C.A. No. 14-2102-BLS ("c.257 Litigation").

Under the Agreement for Judgment reached in the Chapter 257 Litigation, the parties agreed to a schedule for rate setting that requires a prospective unit rate to be set by July 1, 2017 for a number of services purchased by the Commonwealth, including those offered by HIV/AIDS providers. That Agreement also provided for Cost Adjustment Factors (CAFs) to providers who had not yet received prospective unit rates for FY '16 and FY '17. HIV/AIDS providers, although they were funded under cost reimbursement contracts at the time, received the FY '16 CAF.

At present, however, we are at a critical juncture in determining how Chapter 257 will impact services purchased by the Department of Public Health's Office of HIV/AIDS (OHA), since OHA contracts are scheduled to convert to prospective unit rate contracts by the end of FY '17. We are writing to clarify a recent Chapter 257 Update on Tier 3 services sent by *The Collaborative* with regards to the status of three Department of Public Health rate codes dealing with HIV/AIDS services. We want to update you on the status of these rate codes and changes that the Commonwealth and *The Collaborative* Steering Committee have agreed to in an effort to ensure the HIV community continues to receive high quality services without any undue delays or potential interruptions.

Many providers and trade associations have been discussing this issue and the potential impact it could have on services and the agencies delivering them. We want to reach out to members to advise you of the situation. Under the requirements of the Agreement for Judgment and of Chapter 257, there are two options for how OHA contracts could be managed at present:

- (i) exempt HIV/AIDS providers from the Agreement for Judgment and delay the implementation of prospective unit rate contracting for two years; or
- (ii) have EOHHS begin the process now of setting prospective unit rates for HIV/AIDS providers for implementation by 7/1/17.

Given the problems with implementing prospective unit rates for HIV/AIDS providers at present, we entered into discussions with EOHHS and have reached an agreement -- which is not yet finalized -- for a two-year delay in unit rates for three OHA contract codes:

- 4915 - HIV/AIDS Corrections to Community Reintegration
- 4950 - HIV Prevention, Testing and Referral Services; and
- 4955 - HIV/AIDS Case Management and Related Health Support.

Because these services would continue to be paid under cost reimbursement contracts, OHA funded agencies will not receive the Cost Adjustment Factor (CAF) for FY '17 during this extension period.

The rationale for this is as follows:

- HIV/AIDS services are often rapidly changing to address a moving target of risk factors supported by local epidemiological data. Providers and OHA have shown flexibility over the years as needs have changed and this flexibility would likely be significantly compromised under unit rate contracts. Flexibility in contracting is key to being able to respond nimbly to emerging needs.
- OHA contracts include a mix of state and federal funds. The federal funds come to the state through cost reimbursement contracts. OHA then has to report to the federal government accordingly. Shifting to unit rate contracts would greatly complicate reporting for the state and this complication would likely be passed on to providers. An increased administrative burden could result for both OHA and its provider community. Maintaining consistency in state and federal contract structure and billing would prevent new complications in billing and reporting.
- In the coming months the Commonwealth will be implementing Accountable Care Organizations for MassHealth members who possess a complex mix of behavioral health, physical health and social service needs. It is unclear how the new ACO model will impact people with HIV/AIDS and the agencies that serve them. By extending cost reimbursement for two years, the provider community has time to assess the impact and better determine how the public health system and the ACO model of care can work together to best serve people with and at risk for HIV/AIDS. Implementing unit rate contracts without clear data about the impact of ACOs could weaken the service delivery system and compromise patient care.
- Prevention and treatment options for both HIV and hepatitis C are rapidly changing. For example, the HIV community is working with medical providers and public health departments to determine the most effective means for distributing PrEP. At the same time, options for hepatitis C screening continue to expand and models of care are under design. Delaying the unit rate conversion for two years would give the provider community more time to determine the most effective prevention and treatment models along with their actual cost. This information would be crucial in trying to negotiate appropriate unit rates with the state for FY '19.

For the reasons outlined above we believe a two-year extension would allow the provider community the time it needs to analyze changes in the epidemic, create models of care that are aligned with changes in prevention and treatment, and also ensure that prospective unit rates are created that are fair and appropriate. Further, it would avoid increased administrative burden for OHA and its funded agencies while also ensuring that the system of care can remains flexible. Preliminary conversations with OHA indicate that they are in support of this plan as well.

If you have questions about this extension agreement with EOHHS, we welcome your input. Please contact us by emailing Gary Blumenthal, Erin Bradley, Vic DiGravio or Michael Weekes.

Sincerely,

The Collaborative Steering Committee Members

Ellen Attaliades
Bruce Bird
Scott Bock
Karen Jeffers
Bill Lyttle
Jane Phelps
Andy Pond
Bill Sprague
Katherine Wilson

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