Mississippi Medicaid Bulletin

Volume 7, Issue 8

February 2001

Subject: Tobacco Cessation Services
Status: New Policy
Effective Date: 02/01/01

Tobacco Cessation Medications

Effective February 1, 2001, the following types of tobacco cessation medications will be covered as authorized by the Executive Director and listed in the Pharmacy Formulary:

- Nicotine gum
- Nicotine patches
- Nicotine nasal spray
- Nicotine oral inhaler
- Zyban®

A physician's prescription will be required for all (prescription and non-prescription) tobacco cessation medications. Each prescription will count toward the ten (10) prescriptions per month limit.

The Division of Medicaid is authorizing benefits for tobacco cessation medications for the purpose of supporting beneficiaries who are trying to quit tobacco use with the temporary assistance of nicotine replacement therapy and/or Zyban®. It is expected that utilization of these products will be in accordance with medical standards of practice, FDA guidelines, and manufacturers' recommendations, which generally limit product use to approximately 12 weeks. The Pharmacy Division will monitor the beneficiary's utilization of tobacco cessation products for overutilization or misuse, and in instances where there are patterns suggesting overutilization or misuse, the prescribing physician(s) will be contacted for justification of medical necessity.

Tobacco Cessation Counseling

To maximize the effectiveness of tobacco cessation medications, the Division of Medicaid will encourage beneficiaries to receive tobacco cessation counseling as follows:

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Inside this Issue

Revised Non-Discrimination Notice

Enclosed is a revised Non-Discrimination Notice. Please duplicate this notice and post in prominent places in your facility.

If you have any questions or concerns regarding this notice, please contact the Provider/Beneficiary Bureau Telephone: 1-800-421-2408 or (601) 359-6050

MISSISSIPPI DIVISION OF MEDICAID

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- Physician counseling - The requirement of a physician's prescription for both prescription and non-prescription tobacco cessation medications is intended to provide an opportunity for the beneficiary to receive tobacco cessation counseling from a physician, which research has shown increases tobacco quit rates more effectively than medication alone.

- Telephone counseling - The Division of Medicaid will encourage beneficiaries to seek free tobacco cessation counseling through Thc Mississippi Tobacco Quitline, a statewide toll-free telephone number (1 - 877 - 4US2ACT). An information brochure about the Quitline will be mailed by DOM to all beneficiaries who receive tobacco cessation medications that are billed to DOM.

- The Division of Medicaid will also distribute information about the Mississippi Tobacco Quitline to Medicaid beneficiaries and providers through numerous venues including, but not limited to:

    - Women in the Perinatal High Risk Management (PHRM) program;
    - Non-emergency transportation providers;
    - Medicaid beneficiary workshops;
    - Client field representatives;
    - Head Start orientation sessions;
    - Mail-outs with new beneficiary booklets;
    - Hand-outs at health fairs;
    - Posters in regional offices;
    - Provider education sessions;
    - EPSDT provider education sessions;
    - Mail-outs to providers with monthly correspondence;
    - Provider bulletin articles;
    - Remittance advice banner messages to providers;
    - Community Mental Health Centers.

Pregnant Women and Women of Childbearing Age who are Eligible for Medicaid

Use of tobacco cessation medications in pregnant or lactating women will be the decision of the beneficiary and her physician.

Pregnant women and women of childbearing age will be targeted for case management related to tobacco cessation through the Early and Periodic Screening and Diagnostic Treatment (EPSDT) and the Perinatal High Risk Management (PHRM) programs. PHRM and EPSDT case management for pregnant or childbearing-age beneficiaries who smoke will follow the American College of Obstetricians and Gynecologists guidelines as follows:

- Ask about and document smoking status of all patients;
- Assess the patient's attitude toward smoking and quitting;
- Advise cessation clearly and unequivocally;
- Assist with a cessation plan that includes self-help materials and pharmacologic support if appropriate;

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- Arrange follow-up to support choice of cessation, or resume intervention if the patient is still using tobacco.

Pregnant women who use tobacco and choose to participate in the PHRM program will receive intensive case management including, but not limited to:

- Routine questioning about use of tobacco at each interaction;
- Documentation of tobacco use status in the beneficiary's record;
- Development of a care plan to assist the woman in tobacco cessation;
- Referral to the Mississippi Tobacco Quitline or physician for tobacco cessation counseling;
- Provision of appropriate materials for tobacco cessation in pregnant women;
- Regular follow-up to determine if further interventions need to be recommended.

Pregnant women who use tobacco and choose not to participate in PHRM will be counseled by the PHRM provider about tobacco cessation as follows:

Routine questioning about use of tobacco at each interaction;
Referral to the Mississippi Tobacco Quitline or physician for tobacco cessation counseling;
Provision of appropriate materials for tobacco cessation in pregnant women.

Evaluation

The Division of Medicaid will collect and analyze data to determine if beneficiaries are aware of the tobacco cessation benefit and have access to tobacco cessation medications and counseling services and to evaluate utilization patterns and provider interventions. The Division of Medicaid will work with other organizations and agencies to develop additional means of improving beneficiary access to tobacco cessation services as necessary.

HIPAA Update

Health and Human Services Announces Final Regulation Establishing First-Ever National Standards to Protect Patients' Personal Medical Records

On December 20, 2000, Health and Human Services' Secretary Donna E. Shalala released the nation's first-ever standards for protecting the privacy of Americans' personal health records. This new regulation will protect medical records and other personal health information maintained by health care providers, hospitals, health plans and health insurers, and health care clearinghouses.

"For the first time, all Americans - no matter where they live, no matter where they get their health care - will have protections, for their most private personal information, their health records," Secretary Shalala said. "Gone are the days when our family doctor kept our records sealed away in an office file cabinet. Patient information is now accessed and exchanged quickly. With these standards, all Americans will be able to have confidence that their personal health information will be protected."

The regulation was mandated by Congress when it failed to pass comprehensive privacy legislation. The new standards limit the non-consensual use and release of private health information; give patients new rights to access their medical records and to know who else has accessed them; restrict most disclosure of health information to the minimum needed for the intended purpose; establish new criminal and civil sanctions for improper use or disclosure; and establish new requirements for access to records by researchers and others.

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HHS received more than 52,000 comments on its proposed privacy rule published last year. The standards announced on December 20th, further strengthen patients' protection and control over their health information by extending coverage to personal medical records in all forms - including paper records and oral communications. The earlier proposal had applied to electronic records and to any paper records that had at some point existed in electronic form. The final regulation provides protection for paper, oral and electronic information, creating a privacy system that covers all personal health information created or held by covered entities.

"Comprehensive protection of personal medical records is what Congress called for in the law, and it's what American patients and their providers want and need," Shalala said. "Protection for all records is the most logical, workable and understandable approach for patients and providers alike."

The final rule also requires that most providers get their patients' consent for routine use and disclosure of health records, in addition to requiring their authorization for non-routine disclosures. The earlier version had proposed allowing routine disclosures without advance consent - disclosures for purposes of treatment, payment and health care operations (such as internal data gathering by a provider or health care plan). But most of those commenting on this provision, including many physicians, believed consent even for these routine purposes should be obtained in advance.

Advance written consent for routine purposes will be similar to the practice most patients are accustomed to when they visit a doctor or hospital today. However, the regulation will provide additional protection by requiring that patients must also be given detailed written information on their privacy rights and how their information will be used.

Other changes from the proposed rule include:

Allowing disclosure of the full medical record to providers for purposes of treatment: For most disclosures, such as health information submitted with bills, providers may send only the minimum information needed for the purpose of the disclosure. However, for purposes of treatment, health care providers need to be able to transmit fuller information to other providers. The final rule gives providers full discretion in determining what personal health information to include when sending patients' medical records to other providers for treatment purposes.

Protecting against unauthorized use of medical records for employment purposes: Companies that sponsor health plans will not be able to access personal health information from the sponsored plan for employment-related purposes, without authorization from the patient.

The bipartisan Health Insurance Portability and Accountability Act of 1996 (HIPAA) called on Congress to enact comprehensive national medical record privacy standards by Aug. 21, 1999. When Congress was unable to enact standards by this deadline, HIPAA required that HHS issue regulations. Proposed regulations were published Nov. 3, 1999. The issuance of these final regulations completes HHS' regulatory process on health information privacy under the HIPAA provision. The regulation will be enforced by the HHS Office for Civil Rights.

The final regulation retains the approach originally outlined by Secretary Shalala in September 1997 in her "Recommendations for Protecting the Confidentiality of Individually Identifiable Health Information."

The new regulation reflects the five basic principles outlined at that time:

- **Consumer Control:** The regulation provides consumers with critical new rights to control the release of their medical information, including advance consent for most disclosures of health information; the right to see a copy of their health records; the right to request a correction to their health records; the right to obtain documentation of disclosures of their health information; and the right to an explanation of their privacy rights and how their information may be used or disclosed.

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- **Boundaries:** With few exceptions, an individual's health care information should be used for health purposes only, including treatment and payment. For example, a hospital may use personal health information to provide care, teach, train, conduct research and ensure quality. However, employers who also sponsor health plans may not obtain information for non-health purposes like hiring, firing or determining promotions, without permission from the individual. Similarly, insurers may not use such information to underwrite other products, such as life insurance. Disclosure is to be kept to the minimum information needed for the purpose of the disclosure.

- **Accountability:** Under HIPAA, for the first time, there will be specific federal penalties if a patient's right to privacy is violated. For non-criminal violations of the privacy standards by the persons subject to the standards, including disclosures made in error, there are civil monetary penalties of $100 per violation up to $25,000 per year, per standard. In addition, criminal penalties are provided in HIPAA for certain types of violations of the statute that are done knowingly: up to $50,000 and one year in prison for obtaining or disclosing protected health information; up to $100,000 and up to five years in prison for obtaining or disclosing protected health information under "false pretenses"; and up to $250,000 and up to 10 years in prison for obtaining protected health information with the intent to sell, transfer or use it for commercial advantage, personal gain or malicious harm.

- **Public Responsibility:** The new standards reflect the need to balance privacy protections with the public responsibility to support such national priorities as protecting public health, conducting medical research, improving the quality of care, and fighting health care fraud and abuse. For example, when there is an infectious disease outbreak, public health agencies need to obtain important information to better protect the public. The new regulation provides standards for how such information should be released to balance privacy and public health needs.

- **Security:** It is the responsibility of organizations that are entrusted with health information to protect it against deliberate or inadvertent misuse or disclosure. The final regulation requires covered organizations to establish clear procedures to protect patients' privacy, including designating an official to establish and monitor the entity's privacy practices and training.

The new regulation is designed to enhance the protections afforded by many existing state laws. In circumstances where the federal rules and state laws are in conflict, the stronger privacy protection would prevail. The standards apply to all consumers whether they are privately insured, uninsured or participants in public programs such as Medicare or Medicaid. Most covered entities will have two years to come into compliance.

Recognizing the ***savings*** and cost potential of standardizing electronic claims processing and protecting privacy and security, the Congress provided in HIPAA 1996 that the overall financial impact of the HIPAA regulations reduce costs. As such, the financial assessment of the privacy regulation includes the 10-year $29.9 billion savings HHS projects for the recently released electronic claims regulation and the projected $17.6 billion in costs for the privacy regulation. This produces a net savings of approximately $12.3 billion for the health care delivery system.

While the regulation announced, significantly strengthens protections for patients' confidentiality, Secretary Shalala said Congress still needs to act in areas not covered by existing federal law. Under current law, the final regulation does not directly regulate many entities, including life insurers and worker's compensation programs - thus allowing unlimited use and reuse of information by such entities. Federal legislation is also needed to fortify the penalties and to create a private right of action so that citizens can hold health plans and providers directly accountable for inappropriate and harmful disclosures of information.

For more information, see the Department of Health and Human Services website at **http://aspe.hhs.gov/admnsimp/final/press2.htm.**

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If you have any questions related to the topics in this bulletin, please contact the EDS Correspondence Unit at 1-800-884-3222 or 601-960-2800.

Mississippi Medicaid Bulletins and Manuals are on the Web!
www.dom.state.ms.us

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Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				ESC Cut-Off 5 pm 1 Tobacco Cessation Services begin	2	3
4	5 Checkwrite	6	7	ESC Cut-Off 5 pm 8	9	10
11	12 Checkwrite	13	14	ESC Cut-Off 5 pm 15	16	17
18	19 DOM, EDS & HSM closed Checkwrite	20	21	ESC Cut-Off 5 pm 22	23	24
25	26 Checkwrite	27	28	ESC Cut-Off 5 pm		

Checkwrites and Remittance Advices are dated every Monday. However, funds are not transferred until the following Thursday, and Remittance Advices usually arrive the following Friday.

IMPORTANT
NOTICE

The Division of Medicaid in the Office of the Governor for the State of Mississippi complies fully with the Non-Discrimination Provision of all State and Federal regulations, including Section 504 of the Rehabilitation Act of 1973 and the Civil Rights Act of 1964 in that no participant, applicant or employee shall on the ground of age, race, color, national origin, limited English proficiency, or physical or mental disability be excluded from participation in, be denied the benefits of or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance from the Department of Health and Human Services.

Individuals having reason to believe that they have been discriminated against should contact the agency listed below:

MISSISSIPPI DIVISION OF
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Provider/Beneficiary Relations Bureau
Office of the Governor
Division of Medicaid
Suite 801, Robert E. Lee Building
239 North Lamar Street
Jackson, MS 39201-1311
Telephone: 1-800-421-2408 or (601) 359-6133