



United States
Department of
Agriculture

September 25, 2015

Food and
Nutrition
Service

3101 Park
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Alexandria, VA
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SUBJECT: WIC Policy Memorandum #2015-07
Medicaid Primary Payer for Exempt Infant Formulas and Medical Foods

TO: Regional Directors
Special Nutrition Programs
All Regions

WIC State Agency Directors
All Regions

This policy memorandum supersedes Reissue Final WIC Policy Memorandum #2001-6, Medicaid Primary Payer for Exempt Infant Formulas and Medical Foods. The purpose of this policy memorandum is to clarify the WIC regulatory requirement at 7 CFR 246.10(e)(3)(vi) that WIC State agencies must coordinate with the State Medicaid Program for the provision of exempt infant formulas and medical foods (i.e. WIC-eligible nutritionals, as defined by 7 CFR 246.2).

BACKGROUND

In September 2014, the U.S. Department of Agriculture, Office of Inspector General (OIG) issued Audit Report 27004-001-22 titled "State Agencies' Food Costs for the Food and Nutrition Service's Special Supplemental Nutrition Program for Women, Infants and Children." The Report included two recommendations regarding exempt infant formulas and medical foods:

1. In collaboration with the Department of Health and Human Services (HHS), clarify what coordination between WIC State agencies and Medicaid State offices means with regard to the provision of exempt infant formula and medical foods issued to mutual program participants. Record this clarification between HHS and the Food and Nutrition Service (FNS) in an appropriate decision document.
2. Provide technical assistance to WIC State agencies to assist in their coordination efforts, including sharing best practices from WIC State agencies that have successfully coordinated with Medicaid for the provision of exempt infant formula and medical foods.

WIC Food Package III provides exempt infant formulas and WIC-eligible nutritionals to infants, children and women participants who have a diagnosed medical condition that precludes or restricts the use of conventional foods. The provision of these products helps to prevent expensive health care costs, resulting in savings to health insurance providers, such as Medicaid.

Federal WIC regulations at 7 CFR 246.10(e)(3)(vi) require WIC State agencies to coordinate with Federal, State or local government agencies or with private agencies that operate programs that also provide or could reimburse for exempt infant formulas and WIC-eligible nutritionals to mutual participants. At a minimum, the WIC State agency must coordinate with the State Medicaid program. The WIC State agency is responsible for providing up to the maximum amount of exempt infant formulas and WIC-eligible nutritionals under Food Package III in situations where reimbursement is not provided by another entity.

FNS Coordination with DHHS

In response to the OIG audit report, FNS held discussions with DHHS' Centers for Medicare & Medicaid Services (CMS) on how to support State WIC and Medicaid Programs collaboration efforts pertaining to the provision of exempt infant formula and medical foods to mutual program participants. During those discussions, CMS reaffirmed their role as the primary payer for exempt infant formulas and medical foods issued to WIC participants who are also Medicaid beneficiaries.

WIC State Agency Coordination with State Medicaid Counterparts

Annually, WIC State agencies should contact their State Medicaid counterparts to determine coverage of exempt infant formulas and medical foods, and to work out the necessary details regarding referral or reimbursement procedures. WIC State agencies are expected to document the discussions with Medicaid in their administrative files. To assist WIC State agencies in their coordination efforts, the attached document, "Coordination with Medicaid - Helpful Tips for WIC State Agencies," provides technical assistance as well as suggested coordination steps. The document was developed based on discussions with CMS and WIC State agencies that have been successful in communicating and establishing an agreement with their Medicaid counterparts.

Summary

The Medicaid Program is the primary payer for exempt infant formulas and medical foods issued to WIC participants who are also Medicaid beneficiaries. Annually, WIC State agencies are expected to coordinate with their State Medicaid counterpart to ensure that the nutritional needs of mutual participants are met.

Please contact your respective FNS Regional office for technical assistance or any questions regarding this memorandum or the attachment.



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Attachment—Coordination with Medicaid - Helpful Tips for WIC State Agencies

Coordination with Medicaid - Helpful Tips for WIC State Agencies

Introduction

As part of its role as an adjunct to quality health care, the WIC Program provides WIC participants with screening and referrals to other health and social services. The Medicaid Program provides health coverage to millions of Americans, including eligible low-income adults, children, pregnant women, elderly adults and people with disabilities. This document is intended to assist WIC State agencies in coordinating with their State Medicaid counterpart to ensure that the nutritional needs of mutual participants are met.

Background Information on Medicaid

Medicaid is a Federal-State partnership insofar as Medicaid is authorized under federal law and is administered by each State. Although each State is responsible for the operation of its Medicaid program, the Centers for Medicare & Medicaid Services (CMS) is the federal agency charged with administrative oversight of all Medicaid programs. CMS promulgates regulations, develops policy, and guides States in the operation of their Medicaid programs, including the approval of each Medicaid State plan, all State applications for Medicaid waivers, and any amendments to either the plan or to waiver programs.

Federal funding is available to State Medicaid programs for the provision of health care services and various administrative functions. Matching rates for services differ based on the state's per capita income relative to the national average per capita income while the matching rate for administrative functions is 50 percent.

Medicaid programs vary according to each State's statutes within broad federal guidelines. Each State develops and implements a State-specific Medicaid program through an approved Medicaid State Plan. Each State must develop a State plan that describes its Medicaid program administration, eligibility categories, services provided and reimbursement methodologies. The plan must identify the mandatory and optional health care services available through the state's Medicaid program.

The Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit provides comprehensive and preventive health care services for children under age 21 who are enrolled in Medicaid. Children eligible for EPSDT are required to be provided any mandatory or optional benefit that is determined to be medically necessary and coverable under the federal Medicaid program. Here is a link to the EPSDT webpage on the Medicaid.gov website for additional information on the EPSDT benefit including services requirements.

<http://www.medicaid.gov/medicaid-chip-program-information/by-topics/benefits/early-and-periodic-screening-diagnostic-and-treatment.html>

Most states provide full coverage to all pregnant women who are determined to be eligible under the Medicaid state plan. A few states establish an income limit for full coverage of pregnant women and cover pregnant women with income above that limit for pregnancy-related services and coverage for other conditions that might complicate a pregnancy (as defined by a state Medicaid agency). Pregnant women who would otherwise lose Medicaid eligibility (such as due

to increased household income) are entitled to extended or continuous Medicaid coverage until the end of the month after the woman's 60-day post-partum period.

Steps to Medicaid Coordination

The following coordination steps provide strategies WIC State agencies may use in their outreach and collaboration efforts with State Medicaid agencies.

Step One: Establish a point-of-contact at the State Medicaid agency to serve as the coordinator or focal point of information for the WIC program.

- Contact your State Medicaid Agency as a starting point. A listing of State Medicaid Agencies can be accessed from the National Association of Medicaid Director's website at: www.medicaiddirectors.org. A listing of CMS regional office staff and state EPSDT coordinators can be accessed through the CMS website: <http://www.medicaid.gov/medicaid-chip-program-information/by-topics/benefits/downloads/epsdt-contacts.pdf>. CMS regional office staff work closely with states in implementing their Medicaid programs.
- Jointly discuss who at the State level should be part of the collaborative discussions (such as Director of Medicaid or designees and WIC, DHHS State Commissioner or other budget official, EPSDT State Coordinators, etc.).
- Schedule a meeting to introduce your team members and exchange mutually beneficial program information.
- Establish rapport through regular contact.

Step Two: Learn about each other's program, as well as local government agencies or private agencies that operate programs that also provide or could reimburse for exempt infant formulas and WIC-eligible nutritionals to mutual participants. In learning about each other's programs discuss legislative, regulatory, and policy program requirements such as:

- Program eligibility criteria as well as how often participants need to reapply for the program.
- Exempt infant formula and medical foods requirements such as: WIC state agency formula list (state formulary) and Medicaid coverage policies, amounts provided to participants, how amounts are determined and issued, and discussion of over-issuance prevention.
- Referral and reimbursement systems.
- Coding and billing process. Note: Medicaid systems vary by State; some use the Healthcare Common Procedure Coding System (HCPCS) while others use Product Reimbursement Codes or systems of their own.
- Documentation elements, i.e., who is authorized to complete the formula prescription (physicians or other non-physician practitioners)? How often is the formula prescription required to be renewed? How long do formula prescriptions have to be on file to support claims billed?
- Share sources of program data such as: policy documents (e.g. State plan, Procedure manuals, tracking tools, etc.) that may facilitate monitoring and evaluation of coordination practices.

- Designate a decision-making structure to facilitate timely decisions and follow-through tasks.

Step Three: Identify opportunities to support each other's efforts and enhance the quality of services provided to mutual participants such as:

- Strategies to ensure continuity of exempt infant formula and medical food provision in a timely manner.
- Creating a shared formula request form, identifying qualifying conditions that require the use of an exempt infant formula and medical foods, etc.
- Forming a formula advisory group with representatives from Medicaid, WIC, physicians, pharmacists, etc. to identify and determine formula needs of participant groups.
- Assess the types of coordination approaches (i.e. referral or reimbursement) and determine which type will work best for both programs. A referral based approach is when WIC refers participants for the provision of formula through Medicaid versus a reimbursement approach is when the WIC program provides the formula to the participant and then receives a reimbursement from Medicaid for the cost of the formula.
- Explore technological advances to connect activities such as developing an electronic referral program to enable linkages and streamline services.
- Determine adequacy and consistency of training for all applicable staff members (such as Medicaid and WIC staff, physicians, pharmacists, vendors, etc.). Training could address protocols for formula prescriptions, follow-up process, and documentation.

Step Four: Formalize coordination efforts with a written agreement (i.e., Memorandum of Understanding).

- The written agreement may include specific elements such as the responsibilities of each program for coordination, as well as the condition(s) in which each party has the responsibility of primary payer for the provision of formulas to mutual program participants.
- Consider having the State General Counsel review the signed agreement.

Step Five: Establish a process to assess the quality of service provided to mutual participants.

- Consider using a quality improvement (QI) approach process. For more information on QI see WIC Nutrition Services Standard 16 available at: <http://wicnss.nal.usda.gov>.
- Identify monitoring/tracking tools in place to ensure program integrity; e.g. self-evaluation tools that may address: documentation, coding standards, and delivery of services, etc.
- Use both prospective and retrospective reviews to measure coordination efforts and the quality of service provided to mutual program participants and determine a plan for improvement.

Step Six: Maintain a relationship.

- Establish a schedule for routine communications and how to handle communication of program changes as they arise (e.g. State plan amendments, change in WIC state formulary, etc.). Set realistic expectations about time frames for each agency to ensure that all partners can account for the process in their planning and scheduling.
- Be aware that changes in staffing at both the State WIC and Medicaid offices can occur over time, bringing the possibility of new perspectives and leadership.
- Involve FNS Regional Office staff in your efforts to coordinate with Medicaid. FNS Regional staff may be able to establish contact with Medicaid Regional Coordinators to help resolve issues. Be persistent and continue to explore coordination efforts to ensure your success!