

The Centers for Medicare and Medicaid Services (CMS) included several provisions related to behavioral health services in the 2024 Medicare outpatient prospective payment system (OPPS) and physician fee schedule (PFS) final rules. These include:

Establishment of an Intensive Outpatient Program Benefit

An intensive outpatient program (IOP) is a distinct and organized outpatient program of psychiatric services provided to individuals who have an acute mental illness. IOP was included in the Consolidated Appropriations Act (CAA) of 2023 as a new Medicare benefit category and is generally regarded as less intensive than a partial hospitalization program (PHP). IOP services can be provided by hospital outpatient departments (HOPDs), community mental health centers (CMHCs), federally qualified health centers (FQHCs) and rural health clinics (RHCs) beginning Jan. 1, 2024.

Scope of IOP benefits

The CMS will cover the following as IOP services:

- Individual and group therapy with physicians or psychologists or other mental health professionals to the extent authorized under state law;
- Occupational therapy;
- Social workers, trained psychiatric nurses and other staff trained to work with psychiatric patients;
- Drugs and biologics;
- Individualized activity therapies;
- Family counseling, the primary purpose of which is treatment of the individual's condition;
- Patient training and education; and
- Diagnostic services.

The CMS added 29 HCPCS codes to the list of codes recognized as PHP services to address IOP services.

The CMS excluded the same services as those excluded from the PHP benefit, which are separately covered and not paid as IOP services. These include services provided by physicians, physician assistants, nurse practitioners and clinical nurse specialists, quality psychologists, and services provided to skilled nursing facility residents.

Patients must meet several criteria to be eligible for IOP services:

- Require a minimum of 9 hours of weekly therapeutic services as evidenced in their care plan;
- Be likely to benefit from a coordinated program of services and require more than isolated sessions of outpatient treatment;
- Not require 24-hour care;
- Have an adequate support system while not actively engaged in the program;
- Have a mental health diagnosis (*excluding* substance use disorders);
- Be judged not to be dangerous to self or others; and
- Have the cognitive and emotional ability to participate in the active treatment process and tolerate the program intensity.

CMHCs

The CMS adopted technical changes to codify requirements and coverage for IOP at CMHCs. The revisions allow a CMHC to be considered a Medicare participating provider of both PHP and IOP services but do not require CMHCs to provide both types of services. The CMS also revised the scope of benefits so that the Medicare Part B supplemental medical insurance program extends to PHP and IOP services provided by CMHCs.

Certification and Plan of Care Requirements

The CMS will mirror the existing content of the PHP certification and care plan treatment requirements for IOP services, except to specify that the certification must include documentation that the individual requires services for a minimum of 9 hours per week and that recertification of IOP services must occur at least every 60 days.

Billing and Coding

The CMS requires hospitals and CMHCs to report new condition code 92 on claims to indicate IOP services, while continuing to use existing condition code 41 to indicate PHP services. The CMS **added 37 codes** to the current list of HCPCS codes that are payable for PHP services to account for services that would be billable for PHP or IOP services. This is an increase from the 18 codes proposed for addition, since the CMS received several comments supporting the inclusion of codes representing caregiver-focused services, Principle Illness Navigation, and testing and diagnostic services. The CMS modified descriptions of other codes to include references to IOP services in addition to PHP services and remove one code (for Narcosynthesis) that the CMS does not believe is widely used.

The CMS will use the HCPCS code listing to determine the number of services per PHP or IOP day and determine the ambulatory payment classification (APC) per-diem payment amount for each day. Consistent with the current PHP benefit, at least one billed service must be from a “primary list” of specific services to qualify for APC payment.

Payment Methodology

The CMS revised the methodology for calculating PHP services and mirrored the methodology for IOP services. The CMS established four separate PHP APC per-diem rates—two for hospital-based programs and two for CMHC programs. Similarly, the CMS created four separate IOP APC per-diem rates—two for hospital-based programs and two for CMHC programs. The per-diem rates are the same for IOP and PHP services.

The standard PHP day generally consists of four or more services per day; in addition to paying for those days, the CMS provided payment for days when a beneficiary is unable to complete a full day of PHP treatment due to extenuating circumstances in limited circumstances. Based on the final rule, the CMS will make payment for PHP and IOP days with three or fewer services using the three-service days payment rate. The CMS noted that it expects days with fewer than three services will be infrequent and will monitor the provision of these days among providers and individual patients.

The CMS set IOP payment rates at the same rates as PHP because they are the same services in both programs, billed with different frequencies in a PHP compared to an IOP.

The table below compares the final 2023 and final 2024 PHP and IOP Medicare fee-for-service payment rates:

	Final Payment Rate 2023	Final Payment Rate 2024	% Change
APC 5851: Intensive Outpatient (3+ services) for CMHCs	-	\$87.66	-
APC 5852: Intensive Outpatient (4+ services) for CMHCs	-	\$157.58	-
APC 5853: Partial Hospitalization (3+ services) for CMHCs	\$142.70	\$87.66	-38.57%
APC 5854: Partial Hospitalization (4+ services) for CMHCs	-	\$157.58	-
APC 5861: Intensive Outpatient (3+ services) for Hospital-based IOPs	-	\$259.40	-
APC 5862: Intensive Outpatient (4+ services) for Hospital-based IOPs	-	\$358.21	-
APC 5863: Partial Hospitalization (3+ services) for Hospital-based PHPs	\$268.22	\$259.40	-3.29%
APC 5864: Partial Hospitalization (4+ services) for Hospital-based PHPs	-	\$358.21	-

Separately, the CMS will require the physician certification for PHP services to include a certification that the patient requires such services for a minimum of 20 hours per week after 18 days, with subsequent recertifications no less than every 30 days, as required by the CAA of 2023.

The CMS will continue to make outlier payments to CMHCs for 50% of the amount by which the cost for the PHP service exceeds 3.4 times the highest CMHC PHP APC payment rate implemented for that calendar year. Consistent with prior years, the CMS will apply an 8% outlier payment cap to the CMHC's total per diem payments. The CMS will also expand the calculation of the CMHC outlier percentage to include PHP and IOP.

Marriage and Family Therapist and Mental Health Counselor Services Covered by Medicare Part B

Beginning in 2024, as required by the CAA of 2023, **services of a marriage and family therapist (MFT) or mental health counselor (MHC) are covered under RHC and FQHC services** if the MFT or MHC is employed or under contract with the RHC or FQHC at the time the services are provided.

The CMS finalized policies in the 2024 PFS final rule to **establish coverage** for MFT and MHC services.

Payment for IOP Services Furnished by Opioid Treatment Programs (OTPs)

OTP intensive outpatient services are defined as *“services that are reasonable and necessary for the diagnosis or active treatment of the individual's condition; are reasonably expected to improve or maintain the individual's condition and functional level and to prevent relapse or hospitalization; and are furnished in accordance with a physician certification and plan of care.”*

The CMS finalized a policy to cover IOP services that are furnished in OTPs and meet the criteria specified, with modification. This policy implements a weekly payment adjustment via an add-on code for IOP services furnished by OTPs for the treatment of opioid use disorder. IOP services provided by OTPs would be paid as long as each service is medically reasonable and necessary, and not duplicative of any service paid for under any bundled payments billed for an episode of care in a given week. The CMS finalized a change to the definition of OTP IOP services to **allow the required certifications to be performed by non-physician practitioners.**

Revisions to PHP Physician Certification Requirements

Existing regulations define PHP services as those that are provided in accordance with a physician certification and plan of care meeting certain requirements. The CAA established a new requirement that a physician certification include a determination that a patient needs a minimum of 20 hours of PHP service per week, with this determination required monthly. The CMS amended the regulatory language to include this specific addition. However, because the 20-hour minimum weekly requirement is consistent with existing Medicare PHP regulations, the **CMS does not believe this will create a new requirement from a practical perspective.**

Remote Outpatient Mental Health Services

The CMS established **three new HCPCS codes in the 2023 OPPS final rule for diagnosis, evaluation or treatment of a mental health or substance use disorder performed by hospital clinical staff for patients in their homes.** In the 2024 rule, the CMS made updates to the previously established codes.

The CMS updated descriptors by removing the word “initial” from the descriptors of the existing HCPCS codes for diagnosis, evaluation or treatment of a mental health or SUD performed by hospital clinical staff for patients in their homes. **This allows for billing with the codes when provided as a subsequent service.**

The CMS created a **new, untimed HCPCS C-code describing group psychotherapy that can be reported when a beneficiary receives multiple hours of group therapy per day.** The CMS believes this will be less administratively burdensome than reporting and documenting each unit of time using the other three codes. The code is assigned to APC 5821.

The CMS delayed the in-person service requirements for mental health services provided remotely by hospital staff to beneficiaries in their homes until Jan. 1, 2025. Specifically, in the 2023 OPPS final rule, the CMS adopted a requirement that a beneficiary **must receive an in-person service within six months prior to the first remote mental health service and within 12 months after each remote mental health service.** A permanent elimination of these requirements would require Congressional legislation.