

CMS Outlines Behavioral Health Codes For Medically Frail Exemption, Advocates Worry About Conservative Code Lists

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CMS' latest guidance on determining a medically frail exemption from Medicaid work requirements may offer administrative relief to some stakeholders, but behavioral health advocates now worry that states fearing aggressive audits may take a minimalist approach when deciding which claims create an automatic exemption.

At issue is the slidedeck CMS posted publicly last week that outlines an optional three-tiered process to screen beneficiaries' medical conditions for a medically frail exemption. While CMS gives some examples of conditions, states will be tasked with setting the pay codes that will automatically qualify beneficiaries for such an exemption -- Tier 1 cases -- or that must be combined with other qualifying codes, pharmacy data, durable medical equipment usage and possibly a functional status assessment to make a determination (Tier 2). Beneficiaries with claims data not on that list or submitted more than 12 months ago would be Tier 3 cases, where Medicaid staff need to manually review the beneficiary's medical frailty.

The guidance gives some relief to providers and other stakeholders that some conditions, like congestive heart failure within the last year, can automatically qualify a Medicaid beneficiary as medically frail rather than always requiring a doctor's review.

But the guidance only outlines a few scenarios and leaves making the list of acceptable claims data up to the states to decide.

"It is a new rubric without much guidance on what qualifies within each category, and I think something states are likely worried about is if they decide to use the process and use data to exempt individuals, is CMS going to come around on the backend and audit the data and determine that they made an inappropriate finding?" National Alliance on Mental Illness National Director of Government Relations, Policy & Advocacy Jennifer Snow told *Inside Health Policy* on Tuesday (Sept. 15).

Snow worries that the fear of a negative audit might cause states to back away from establishing a more robust list of claims that automatically qualify as a medically frail exemption.

"I think states are all still trying to figure out what they do," Snow said, later adding, "I think most states don't want to see massive coverage losses because they know that that's going to impact the health of their state and going to impact the hospitals in their state."

Meanwhile, CMS' latest guidance acknowledges the 12-month limitation on states using claims data for a medically frail designation "complicates" its decision in the interim final rule that any beneficiaries in remission from a substance use disorder for less than five years can qualify for a medically frail exemption.

"As of the date of this presentation, CMS anticipates allowing states to verify that an individual is not in recovery from an SUD for 5 years or more by using claims and encounter data from the preceding 5 years, notwithstanding the requirement that adjudicated claims and encounter data be from the preceding 12 months," the guidance says.

CMS also outlined how a state can use the three-tiered method on behavioral health-related codes.

Alcohol dependence with withdrawal delirium and agoraphobia with panic disorder are two of the behavioral health codes would automatically qualify a beneficiary enrolled in Medicaid expansion for an exemption.

In the agoraphobia case, this diagnosis code "demonstrates particularly severe form of psychiatric co-morbidity," CMS explains, but notes the state could also run across other data elements like a code for intensive outpatient psychiatric services that could support a determination of medical frailty.

But not all behavioral health codes will be as clearcut, the guidance shows.

In a substance use disorder case that would be considered Tier 2, CMS says it's the combination of the beneficiaries' claims data over the last five years that proves they're medically frail.

"Diane is a 39-year-old woman with a history of opioid use disorder and PTSD that started after a motor vehicle accident 4.5 years ago. Following the accident, she was prescribed a prolonged course of oxycodone which triggered her substance use disorder," the guidance says.

It later adds, "She connected with a substance use peer counselor 18 months ago who convinced her to get linked in with a methadone clinic, which she visits daily to receive her medication. Despite her ability to avoid acute care over the past 12 months, she reports that she struggles with significant cravings that

interfere with ability to work and she calls her peer counselor 7x per week and engage in group counseling."

This beneficiary is given a medically frail status because of her "significant time commitment of ongoing daily visits to methadone clinic and weekly frequency of self-help/peer services."

States will need additional information before approving a medically frail status for someone with codes indicating an anxiety disorder and an office visit with an established patient with moderate complexity, the guidance says in describing beneficiary in Tier 3.

"Priya is a 32-year-old woman with past medical history of anxiety who is followed by her primary care physician for routine adult health maintenance," the guidance gives as an example. "In the past, she has described chronic, low-grade worry and occasional difficulty sleeping that has waxed and waned over roughly a decade, attributing flare-ups to various overlapping stressors, including caring for an aging parent and general financial strain."

The pharmacy claims in this case show she takes a low-dose selective serotonin reuptake inhibitor, but she's never used additional behavioral health care services and has no record of any emergency room or inpatient visits.

"Medical frailty cannot be determined based on administrative data as severity is indeterminate or not likely," the guidance advises states in this case. "Manual review would be required before the beneficiary could be classified as medically frail based on anxiety diagnosis." -- *Dorothy Mills-*

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