



All-State Medicaid & CHIP Call

January 12, 2021



Section 1006(b) of the SUPPORT Act

- Section 1006(b) of the SUPPORT for Patients and Communities Act, which was enacted on October 24, 2018, established a new mandatory state plan benefit for medication assisted treatment (MAT) located at 1905(a)(29) of the Social Security Act (the Act).
- This provision became effective on October 1, 2020, and will be in effect through September 30, 2025.

Section 1905(a)(29) – Mandatory MAT: Services

- The statute establishes a new section 1905(a)(29) of the Act as a mandatory MAT benefit as including both MAT drugs as well as counseling services and behavioral therapy.
- States have flexibility to specify which counseling services and behavioral therapy they will include, such as:
 - Individual/Group Therapy
 - Peer Support Services
 - Crisis Support Services

Section 1905(a)(29) of the Act– MAT Drugs

- The new benefit covers all FDA-approved or licensed drugs and biologicals to treat Opioid Use Disorder (OUD). This would include ALL forms of drugs and combinations of drugs.
- Currently, three MAT drugs are FDA approved and recognized by the Substance Abuse and Mental Health Services Administration (SAMHSA): methadone, buprenorphine, and naltrexone, and the combinations of these drugs.
- Methadone is only approved for OUD if provided by an opioid treatment program. It is not available for OUD from a pharmacy.
- States are not required to cover opioid withdrawal medications under the MAT benefit, but we remind states that those drugs would be covered by Medicaid if they are covered outpatient drugs.

MAT Drugs - Manufacturer Rebates

- States can bill for Section 1927 Medicaid rebates for these drugs as long as there is a manufacturer rebate agreement in effect and the drug is not excluded from rebates because it is paid for as part of a bundle, such as methadone.
- Should an FDA-approved MAT drug or biological for OUD not meet the definition of a covered outpatient drug, the state would still be required to cover the drug or biological under the MAT mandatory benefit, and the drug or biological would be eligible for federal reimbursement, but not for rebates.
- States could subject MAT drugs or biologicals to prior approval or other utilization management mechanisms, such as a generic-first policy, preferred drug lists, clinical criteria, and quantity limits.

Section 1905(a)(29) - SPA Submission

- States will need to submit a new SPA to cover the new mandatory benefit at section 1905(a)(29) of the Act. Templates written in a structured data format for ease of completion have been posted on Medicaid.gov
- States that already use existing Medicaid authorities to cover items and services that will now be covered under the new mandatory MAT benefit are expected to submit a state plan amendment (SPA) to move their coverage of these items and services to a new page in their Medicaid state plans specific to section 1905(a)(29) of the Act. States may need to update existing coverage pages to reflect this change.
- As described in the next slide, states with an approved section 1135 request will need to submit a SPA by 3/31/2021 in order to secure an effective date of 10/1/2020.

Section 1135 Authority

- CMS is aware that most states have had to focus almost exclusively on responding to the COVID-19 pandemic throughout much of 2020.
- CMS is giving states the opportunity to request section 1135 authority to modify the regulatory deadlines associated with SPA submission and public notice for coverage and payment SPAs for the new MAT benefit while the COVID-19 PHE is still in effect.
- States should use the 1135 authority to request flexibility so that SPAs adding coverage and payment for the new mandatory MAT benefit submitted in the first quarter of 2021 would be effective October 1, 2020. States should submit a letter to Jackie Glaze at Jackie.Glaze@cms.hhs.gov by January 14, 2021, with a statement explaining that the state's response to the COVID-19 pandemic has delayed its ability to submit coverage and/or payment SPAs for the new MAT benefit.

Exception for Provider Shortage

- States may be excused from the mandatory coverage requirement if the state “certifies to the satisfaction of the Secretary that implementing such provisions statewide for all individuals eligible to enroll in the State plan (or waiver of the State plan) would not be feasible by reason of a shortage of qualified providers of medication-assisted treatment, or facilities providing such treatment, that will contract with the State or a managed care entity with which the State has a contract under section 1903(m) or under section 1905(t)(3).”
- The intention of section 1006(b) of the SUPPORT Act is to increase access to MAT services. Therefore, CMS expects states to conduct provider outreach and enrollment as they prepare to meet the new requirements. Since methadone for treatment of OUD can only be provided in Opioid Treatment Programs (OTPs), states that do not already enroll OTPs as Medicaid providers will be expected to take action to do so.

Exception for Provider Shortage, cont'd

- If a state has MAT providers operating in the state that are not currently enrolled in the Medicaid program, states are expected to permit any willing and qualified provider to become a Medicaid provider for the newly required MAT benefit, so that beneficiaries may receive these services from the qualified and willing provider of their choice.
- January 14, 2021 is the deadline for states to submit a request for an exception to comply with implementation of the new mandatory MAT benefit due to provider and/or facilities shortages. States should submit the request to the SPA mailbox or portal.

Extension of Compliance Deadline Due to Legislative Delay

- States that require legislation to comply with the new mandatory benefit should submit requests for a legislative delay extension on or before January 14, 2021 to the Regional SPA/Waiver mailbox or the new “One CMS Portal.”
- The first regular legislative session is defined as those sessions that began after October 24, 2018 and end on or after October 1, 2020.
- The request should include documentation to support that the legislative delay is the only reason the state cannot come into compliance as of October 1, 2020.

Resources

- State Health Official Letter #20-0005, “Mandatory Medicaid State Plan Coverage of Medication Assisted Treatment” was published on December 30, 2020.
- SHO letter: <https://www.medicaid.gov/federal-policy-guidance/downloads/sho20005.pdf>
- SPA templates:
<https://www.medicaid.gov/medicaid/benefits/behavioral-health-services/substance-use-disorders/index.html>

Questions

