

Optum Seeks Massive Clawback of Medicare Advantage Plan Payments

Recently, Optum Behavioral Health (“Optum,” the services division for UnitedHealth Group) has initiated overpayment recovery actions against numerous licensed clinical social workers (“LCSWs”) across the country for services provided from January 1, 2022, through February 24, 2024, due to what Optum has labeled as an error within a claims payment system. Optum began sending overpayment notices to affected providers in December 2023.

According to the National Association of Social Workers (“NASW”), Optum paid Medicare Advantage certain claims for LCSW services at 100% of the Medicare physician fee schedule rate for psychologists, while the Centers for Medicare and Medicaid Services (“CMS”) requires LCSWs to be paid at 75% of that rate.¹ The NASW explains that Optum is essentially seeking to recoup 25% of reimbursements paid to clinical social work providers via Medicare Advantage plans.

Optum’s Clawback Placing Extreme Pressure on Social Workers

Optum’s Medicare Advantage Reimbursement Fact Sheet clarifies that the services within the scope of the clawback include behavioral health services provided to a Medicare Advantage plan member by an out-of-network LCSW.² The LCSW must have received an overpayment notice to be considered within the scope of the clawback. Conversely, Optum advises that in-network providers who have received an overpayment notification letter should follow the disagreement process outlined in the letter if they believe they were reimbursed correctly based on their contracted rate.

In response to the clawback, the NASW submitted an open letter to Optum, wherein the NASW argues that LCSWs should not be responsible for overpayments due solely to Optum’s error and requests to meet with Optum to discuss possible mitigation efforts, including:

- Ensuring contracted rates are honored;
- Implementing a temporary waiver on overpayments and establishment of a future date of implementation to provide clinical social workers with an opportunity to be properly notified about the change in reimbursement policy;
- Allowing affected providers 90 days rather than 30 days to appeal an overpayment request which would ease the burden in re-paying thousands of dollars; and
- Ensuring that future requests for overpayments should be signed and an email address provided for responses and questions.³

What Should Affected Providers Do?

Currently, affected providers must follow the disagreement process outlined in their notification letter and submit any disagreements to Optum within 90 days from the date of the letter to avoid automatic offsets against future claims submissions.⁴ Optum also offers no-interest payment plan options extending up to 12 months.⁵

What Comes Next?

Optum plans to release another wave of overpayment notices at some point during the second quarter of 2024 for claims with dates of service from May 1, 2023 to February 28, 2024. Providers should act vigilantly by closely monitoring their claims submissions, looking out for potential overpayment notices, familiarizing themselves with their Optum contracts and the applicable appeal/dispute process, and notifying their legal counsel to contest any overpayments resulting from the clawback.

[1] 42 U.S.C. § 1395l(a)(1)(F); see, <https://www.cms.gov/medicare/payment/fee-schedules/physician-fee-schedule/marriage-and-family-therapists-mental-health-counselors>.

[2] See, <https://public.providerexpress.com/content/dam/ope-provexpr/us/pdfs/adminResourcesMain/fwae/OONLCSW226.pdf>.

[3] *Id.*

[4] See, <https://public.providerexpress.com/content/dam/ope-provexpr/us/pdfs/adminResourcesMain/fwae/OONLCSW226.pdf>.

[5] *Id.*