

99 CHAUNCY STREET 617.357.0700 PHONE SUITE 500 BOSTON, MA 02111 WWW.MLRI.ORG

617.357.0777 FAX

Behavioral Health Services for Individuals in MassHealth Fee for Service

August 12, 2014

What is MassHealth Fee for Service?

In Fee for Service, health care providers who are fully participating MassHealth providers bill MassHealth directly for providing covered services to MassHealth members. MassHealth publishes regulations and provider manuals describing the credentials it requires for providers it will permit to fully participate in MassHealth and what services they may be paid to provide. In Fee for Service, MassHealth members may see any participating MassHealth provider for any covered service.

Under MassHealth regulations, most members are required to enroll in managed care, but some are exempt. See, 130 CMR §§ 508.001 and 508.004. Members may be in the Fee for Service system for a short time before they choose a managed care plan or for a long time because they are exempt from mandatory managed care. Many people are exempt from mandatory managed care because they have another form of primary insurance like Medicare or employer-sponsored insurance.

Currently, about 240,000 individuals have MassHealth Fee for Service through Temporary MassHealth. This is an unusual and short-term situation. People in Temporary MassHealth applied for MassHealth or help paying for insurance through the Connector after October 1, 2013 using the new ACA (Affordable Care Act) application form. They all received a letter telling them they have temporary coverage until the computer system is capable of making a determination about whether they are eligible for MassHealth or help paying for insurance through the Connector. They do not have MassHealth cards. Temporary coverage is the same as MassHealth Standard Fee for Service benefits. It is slated to end December 31, 2014. See, Temporary Coverage for Applicants for Subsidized Health Insurance, All Provider Bulletin 240 (December 2013) and Temporary Coverage Update: Frequently Asked Questions About Temporary Coverage for Applicants for Subsidized Health Insurance (February 2014).

How Do Behavioral Health Services in Fee for Service Compare to Managed Care?

Fee for Service has a more limited network of behavioral health providers than Managed Care

In Managed Care, providers must be participating in the network of the managed care entity, but the providers do not have to be fully participating MassHealth providers who can bill MassHealth directly. Generally, MassHealth does not currently permit licensed mental health professionals who are not physicians and work for themselves or in a group practice to become providers who bill MassHealth directly. Under MassHealth rules, even clinical psychologists can only bill MassHealth directly for testing not for treatment. 130 CMR §§ 411.405 and 411.406. However, many of these mental health professionals are included in the network of the MassHealth Managed Care Organizations and the Partnership. For this reason, MassHealth members who are in Fee for Service including those in Temporary MassHealth have access to fewer behavioral health providers than members enrolled in Managed Care.

Fee for Service covers many behavioral health services but fewer than Managed Care

MassHealth Fee for Service covers basic behavioral health services provided by MassHealth participating providers. However, there are two important sets of services called Diversionary Behavioral Health Services and the services that were created as part of the Children's Behavioral Health Initiative (CBHI) that are only provided through Managed Care Entities. Diversionary services are described in the 1115 demonstration documents (posted under the health reform link on the MassHealth website) and in the contracts between MassHealth and the Managed Care Entities. They include services like Community Support programs, Family Stabilization Teams, Partial Hospitalization, and Intensive Outpatient Treatment. Services in CBHI for children and youth under age 21 include Intensive Care Coordination, In-Home Therapy, Therapeutic Mentoring, In-Home Behavioral and Family Support and Training. They are described in the Medicaid State Plan and are posted under the CBHI link on the MassHealth website as well as in the contracts between MassHealth and Managed Care Entities.

The following are some of the participating MassHealth providers who may be providing behavioral health services in Fee for Service in accordance with the applicable MassHealth regulations and provider manuals:

- Acute Hospitals-Inpatient and Outpatient,
- Psychiatric Hospitals-Inpatient and Outpatient,
- Mental Health Centers,
- Physicians,
- Psychologists (for testing only not for therapy),
- Psychiatric Day Treatment Programs at a licensed clinic or hospital, and
- Substance Abuse Services at DPH licensed providers including Methadone treatment, inpatient treatment, and outpatient counseling.

How can children and youth under 21 with MassHealth Fee for Service gain access to more behavioral health providers and services?

Almost all children and youth under 21, even those otherwise exempt from mandatory Managed Care, have access to behavioral health services through Managed Care Organizations or the Partnership. 130 CMR § 508.001. There are three groups of children who may be temporarily in MassHealth Fee for Service; all three groups are receiving benefits prior to a final eligibility determination:

- Over 40,000 children may have Temporary MassHealth until Dec. 31, 2014. Children and youth under 21 who have Temporary MassHealth can enroll in Managed Care by calling the MassHealth Customer Service Center and requesting it. See, Behavioral Health Services for Members with Temporary MassHealth Coverage, All Provider Bulletin 245 (May 2014)
- Children and youth with Hospital-Determined Presumptive Eligibility will be in Fee for Service until their eligibility has been determined by MassHealth. See, 130 CMR § 502.003(H). One can speed up this process by submitting a complete application as soon as possible, and asking for expedited processing where there is an urgent medical need.
- Uninsured children under 19 who are enrolled in Family Assistance Direct Coverage pending a 60-day insurance investigation into the availability of employer-sponsored insurance will be in Fee for Service pending the investigation. See, 130 CMR 508.004(A)(8) and (B)(8) (managed care exemption for time-limited coverage). If private insurance is available, the family will receive Premium Assistance towards its cost instead of Family Assistance Direct Coverage. 130 CMR § 505.005(B)(2).

How can adults over 21 with MassHealth Fee for Service gain access to more behavioral health providers and services?

Adults in MassHealth who are exempt from mandatory Managed Care because they are age 65 or older or because they also have Medicare (dually eligible adults), can voluntarily enroll in combined Medicare-Medicaid Managed Care plans.

- Dually eligible adults under 65 can voluntarily enroll in One Care. 130 CMR § 508.007
- Adults age 65 or older can voluntarily enroll in Senior Care Options. 130 CMR § 508.008

For adults who are eligible for MassHealth and have no Managed Care option, such as those under 65 with employer-sponsored insurance, there may be a basis to challenge the behavioral health restrictions in the Fee for Service System. For example, MassHealth refuses to permit licensed *mental health* professionals who are not physicians from becoming fully participating MassHealth providers. However, it allows licensed *medical* professionals who are not physicians to become fully participating MassHealth providers. This disparity may be a violation of federal Mental Health Parity laws. See, Letter from CMS Director Cindy Mann to State Medicaid Directions, SHO #13-001, ACA #24 (Jan. 16, 2013) (Federal parity applies to all Medicaid Managed Care Entities and to CHIP Fee for Service and Fee for Service Alternative Benefit Plans)¹.

Another group of adults in Fee for Service is in Temporary MassHealth. There is significant confusion among consumers, providers and agency staff about Temporary MassHealth. These individuals may have been misinformed about the availability of behavioral health services in the fee for service system. Check whether the needed service is available through the Fee for Service system. If not...

• For adults in Temporary MassHealth who are eligible for MassHealth under 2014 program rules, the Board of Hearings is empowered to make eligibility decisions in the context of an appeal from a MassHealth denial or failure to act. If an adult is eligible for MassHealth under current program rules and more than 45 days have elapsed since the application was filed, consider filing an appeal from MassHealth's failure to make an eligibility determination. 130 CMR § 610.

For questions or comments about this information, please contact Vicky Pulos at vpulos@mlri.org.

¹ Massachusetts covers individuals with CHIP funds in MassHealth Standard, CommonHealth and Family Assistance, and covers individuals through Alternative Benefit Plans in MassHealth Standard and CarePlus.