Community Care INFORMATION BULLETIN

NUMBER: 2015-002

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SUBJECT: Use of Medicaid PMPM Revenue

The purpose of this Information Bulletin (IB) is to provide guidance on the proper use of per member per month (PMPM) revenue expended in support of contract #28023 with the NC Department of Health and Human Services/Division of Medical Assistance (NCDHHS/DMA). Because NCCCN serves as the primary contractual partner to NCDHHS/DMA, our guidance is sought by Networks on questions regarding what's an appropriate use of Medicaid PMPM revenue. This IB seeks to provide unified and consistent answers to some of the more common questions we've fielded.

Expenses that are discouraged or prohibited from being reimbursed with Medicaid PMPM revenue may be supported by outside grants, unencumbered or reserve funds, etc., where available and appropriate. That's why special attention must be paid to the restrictions cited in this IB so as to ensure that expenditures are correctly classified as Medicaid PMPM versus non-Medicaid PMPM.

This IB does not address the topics of cost allocation, indirect expenses or marketing/advertisement costs as all three will be the subject of future bulletins.

Source Material

NCCCN staff pulled from several federal and state resources/documents to justify why a particular expenditure is an unallowable use of Medicaid PMPM revenue. Those sources include, but are not limited to:

- Contract #28023 between NCCCN and NCDHHS/DMA
- "Three-Party Agreement" between NCCCN, Network & Primary Care Physician (PCP) Practices
- Code of Federal Regulations (CFR)
- OMB Circular A-122 and its successors
- State Medicaid Director letters issued by CMS and its predecessor, HCFA
- USDHHS Office of the Inspector General (OIG) Reports
- NCDHHS Fiscal Manual on Non-Profit Administration
- NC Medicaid State Plan

Use of Medicaid PMPM Funds

Federal and state law, regulation and policy identify a variety of things that either cannot be supported with Medicaid PMPM revenue at all or can only be supported within limited parameters. Both are outlined below:

- **After Hours Coverage**: Section IV, 4.3 of the "DHHS Agreement for Participation as a CA/CCNC Provider" requires a Community Care-enrolled physician practice to provide or arrange for consultation, referral, and treatment for emergency medical conditions 24 hours per day, 7 days per week, and a PMPM is paid to the practice to fulfill this and other requirements. As such, Network PMPM revenue cannot be used to pay for after-hours coverage.
- **Alcoholic Beverages**: A variety of state and federal regulations and policies expressly prohibit Medicaid funds being spent on alcoholic beverages.
- **Copayments**: Federal regulations at 42 CFR 447.59 prohibit the use of Medicaid funds being used to fund any portion of a recipient's copayment. Those copayments include, but are not limited to: prescription drugs; professional office visits (e.g., physician, chiropractor, dentist); and the non-emergent use of a hospital emergency room.
- **Fund Raising**: A variety of state and federal regulations and policies expressly prohibit federal funds, including Medicaid, being spent on organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests and investment activities.
- **Gift Cards**: Medicaid PMPM revenue cannot be used to purchase gift cards for distribution to Medicaid or Health Choice recipients or for use as a prize, give-away or "thank you" gift to members of the public or vendors. There may be a tax liability associated with giving gift cards to Network staff, so you'll want to consult with your Network CFO and/or attorney.
- **HIE Connections**: Contract #28023 includes several references to the Health Information Exchange (HIE) and Health Information Technology (HIT), and it also cites as a general responsibility of NCCCN and Networks to provide education, assistance, and training regarding the transmission of health data. What could not be found was language specifically authorizing the use of Medicaid PMPM revenue to pay for the annual HIE subscription and maintenance fee incurred by physician practices. Therefore, we encourage Networks not to use their Medicaid PMPM revenue to pay for this type of expense.
- **ICD-10 Training**: Section 1.23 of contract #28023 recognizes the role NCCCN and Networks have to educate/inform providers about "CCNC priority initiatives" through orientation, training, and technical assistance. ICD-10 training is a priority initiative of DMA and, thus, for NCCCN and Networks, so the cost of ICD-10 training is an allowable use of PMPM revenue.
- **Lobbying**: Contract #28023, a host of federal Medicaid regulations, and Section 501(c)(3) of the Internal Revenue Code each prohibit NCCCN and Networks from engaging in substantial legislative activities. Useful guidance on lobbying can be found in the "Compliance Guide for 501(c)(3) Public Charities" at the following web link: http://www.irs.gov/pub/irs-pdf/p4221pc.pdf *NOTE*: Lobbying will be the topic of a special IB in the near future.
- **Patient Care Management Aids**: In fulfilling the obligations of contract #28023, it is likely that Network staff will routinely provide instruction to Medicaid or Health Choice recipients on how to monitor their individual health condition(s). That instruction could involve illustrating how to set up a weekly pill box to ensure that patients on multiple medications take the right pill in the right dose at the right time, or how to correctly use and read blood pressure equipment for certain hypertensive patients. It might also involve (but not be limited to) a discussion on the importance of using a scale to track daily fluctuations in weight for patients with CHF (congestive heart failure), supplying a mattress and pillow case covers for asthmatic

patients, or showing obese patients how measuring cups can be used to gauge the correct portion size. Any and all of these aides/items are permissible purchases with Medicaid PMPM revenue *if* they are being used for teaching purposes and are retained by the Network. Despite the obvious clinical value of purchasing and providing these items to Medicaid or Health Choice recipients, they aren't permissible, reimbursable expenses when distributed to recipients. That's because DMA did not seek federal approval to allow NCCCN or the Networks to purchase services/items not covered under the traditional Medicaid program. Under a managed care waiver, these are sometimes referred to as (b)(3) services.

- **Pilots**: Section 2.2.1 of contract #28023 contemplates that new activities or initiatives will be undertaken, but only if they are mutually agreed to by DMA and NCCCN. The expenses related to those jointly approved projects (which include pilots) are an allowable use of Medicaid PMPM revenue. New activities, initiatives, and pilots which have not been approved by NCCCN and DMA cannot be supported with Medicaid PMPM revenue and involve activities: (a) not contemplated in our master contract with DMA; (b) target Medicaid recipients that are exempt from Community Care/CA-II; or (c) seek to control the utilization of non-primary care-related Medicaid services such as long-term care and behavioral health. Recent examples of DMA-approved pilots include the MNR/PCS initiative and Biologics oncology care management.
- **Reimbursable Sales Tax**: The "Network Obligations" section of the three-party agreement (*see* part B.21) makes it impermissible for reimbursable sale tax to be charged to Medicaid.
- **Supporting the State/Local Match of a DSS Caseworker**: There are several issues at play here. First, contract #28023 grants exclusively to the Division (and by extension the 100 county DSSs) the responsibility to enroll/disenroll eligible Medicaid and Health Choice recipients into a Community Care Network and medical home (see Section 2.3). Second, page 2 of that contract also prohibits supplanting – the act of using federal Medicaid funds (which our PMPM payments are comprised) to draw down additional public funding for related programs. And third, NC Medicaid's State Plan stipulates that local DSS case workers are funded as a Medicaid administrative expense (as of October 2015, 75% federal and 25% local match). The federal regulation at 42 CFR 433.51 identifies the allowable sources for state or local match as being: (a) appropriated directly to the State or local Medicaid agency; (b) transferred from other public agencies to a State or local agency and under its administrative control, (c) certified by the contributing public agency as representing expenditures eligible for match; or (d) not being federal funds. Given all of these points, we conclude that Medicaid PMPM revenue can't be used as the state/local match of a DSS caseworker. We also conclude that it can't be used to fund Network staff undertaking these enrollment tasks.
- **Transportation**: The US Centers for Medicare & Medicaid Services (CMS) describes "non-emergency medical transportation" or NEMT as transportation that ensures Medicaid recipients can get to-and-from scheduled medical services. Examples include going to a medical appointment, dialysis treatment for kidney disease, or picking up prescriptions at the drug store. NC's Medicaid State Plan includes NEMT as a covered service that is exclusively overseen/delivered by our 100 county governments. As such, Networks must direct recipients to the appropriate county agency for all of their non-emergency medical transportation needs. It is impermissible to use Medicaid PMPM revenue to cover the cost of a bus fare, taxi, etc., for a recipient to get to-and-from a scheduled medical service. Networks should talk with their county DSS director and/or DMA about any recipient challenges with accessing NEMT.