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Proposed Policies for the Medicare
Diabetes Prevention Program
Expanded Model (MDPP) for
Calendar Year 2021 Medicare
Physician Fee Schedule

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Proposed Policies for the Medicare Diabetes Prevention Program Expanded Model (MDPP) for the Calendar Year 2021 Medicare Physician Fee Schedule

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On August 3, 2020, the Centers for Medicare & Medicaid Services (CMS) issued the Calendar Year (CY) 2021 Physician Fee Schedule (PFS) proposed rule, which proposes to revise certain MDPP policies during the remainder of the COVID-19 Public Health Emergency (PHE) and any future applicable 1135 waiver event.

We are proposing that we would determine whether an 1135 waiver event could disrupt in-person MDPP services if MDPP suppliers are unable to conduct classes in-person, or if MDPP beneficiaries would be unable to attend in-person classes, for reasons related to health, safety, or site availability or suitability. Health and safety reasons may include avoiding the transmission of contagious diseases, compliance with laws and regulations during an 1135 waiver event, or the physical safety of MDPP beneficiaries or MDPP coaches during an applicable 1135 waiver event. If finalized, in the event that we determine that an 1135 waiver event may disrupt in-person services, we would notify all impacted MDPP suppliers of the applicable 1135 waiver event via email and other means as appropriate.

MDPP Once Per Lifetime Set of Services

We are also proposing a revision to the March 31st COVID-19 IFC in which we made temporary provisions to permit certain beneficiaries to obtain the set of MDPP services more than once per lifetime, waive the 5 percent weight loss eligibility requirements, and allow certain MDPP suppliers to either pause the delivery of services or deliver virtual MDPP sessions on a temporary basis. We are seeking comment on whether we should establish an Emergency Policy that applies more broadly and would improve the current flexibilities for the COVID-19 PHE and provide MDPP suppliers and MDPP beneficiaries with flexibilities to address any future applicable 1135 waiver events. If finalized, the proposed flexibilities would supersede the flexibilities finalized in the March 31st COVID-19 IFC, if the PHE is still in effect when the CY2021 Physician Fee Schedule final rule becomes effective. If finalized, the proposed changes will be available to all future applicable 1135 waiver events, effective January 1, 2021.

We are also proposing to amend the MDPP regulations to provide for certain changes during an applicable 1135 waiver event, including:

- Allowing MDPP suppliers to either deliver MDPP services virtually or suspend in-person services and resume services at a later date.
- Permitting certain MDPP beneficiaries to obtain the set of MDPP services more than once per lifetime, for the limited purposes of allowing a suspension in service due to an applicable 1135 waiver event and

to provide the flexibilities that will allow MDPP beneficiaries to maintain eligibility for MDPP services despite a break in service.

- Amending the definition of “engagement incentive period” to further qualify when the period ends in the case of the COVID-19 PHE or an applicable 1135 waiver event.

Virtual Make-up and Regular Sessions

We are proposing that the limit placed on the number of virtual make-up sessions described at § 410.79 would not apply during the remainder of the COVID-19 PHE or during any future applicable 1135 waiver event for MDPP suppliers to provide services virtually, so long as the virtual services are furnished in a manner that is consistent with the CDC Diabetes DPRP standards for virtual sessions, follow the CDC-approved DPP curriculum requirements, and the supplier has an in-person DPRP organizational code. We propose to amend the regulations to clarify that all sessions, including the first core session, may be offered virtually, not as “virtual make-up sessions,” but as a virtual class consistent with the in-person class curriculum, during the remainder of the COVID-19 PHE and any future applicable 1135 waiver event.

The MDPP expanded model was certified to provide in-person services and does not include a “virtual only” option. Virtual delivery of MDPP services are allowable during the COVID-19 PHE and future applicable 1135 waiver events to ensure continuity of services when in-person classes are not safe or feasible. This flexibility is intended to be temporary. We do not believe it is appropriate to permit virtual-only suppliers to furnish MDPP services when the proposed Emergency Policy is in effect. Given the difficulty of predicting when the COVID-19 PHE or any applicable 1135 waiver event will end, MDPP suppliers must remain prepared to resume delivery of MDPP services in-person when the proposed Emergency Policy is no longer in effect. Permitting virtual-only suppliers to furnish MDPP services during the COVID-19 PHE or an applicable 1135 waiver event could disrupt the provision of services to MDPP beneficiaries when services must resume on an in-person basis.

We propose that these virtual sessions may be furnished to achieve both attendance and weight-loss goals in the event that a qualifying weight measurement was obtained by one of the methods described herein. We propose that an MDPP supplier may offer to an MDPP beneficiary: 16 virtual sessions offered weekly during the core session period; 6 virtual sessions offered monthly during the core maintenance session interval periods; and 12 virtual sessions offered monthly during the ongoing maintenance session interval periods. MDPP suppliers may only furnish a maximum of one regularly scheduled session virtually and a maximum of one virtual make-up session per week to an MDPP beneficiary. This proposed rule would increase the number of allowable virtual core sessions from 15 to 16. This change is due to the added proposed flexibility to allow suppliers to obtain weight measurements remotely (as described below) and to deliver the first core session virtually.

We propose that under these temporary flexibilities, the requirement for in-person attendance at the first core-session does not apply. During the COVID-19 PHE and any future applicable 1135 waiver events, we propose that MDPP suppliers may obtain weight measurements from MDPP beneficiaries through the following methods: (1) in-person, when the weight measurement can be obtained safely and in compliance with any and all applicable laws and

regulations; (2) via digital technology, such as scales that transmit weights securely via wireless or cellular transmission (commonly referred to as “Bluetooth™ enabled”); or (3) self-reported weight measurements from a participant’s own at-home digital scale. Self-reported weights must be submitted via video, by the MDPP beneficiary to the MDPP supplier. The video must clearly document the weight of the MDPP beneficiary as it appears on his/her digital scale on the date associated with the billable MDPP session.

Weight Loss Requirements and Eligibility for Ongoing Maintenance Sessions

Because of the proposed temporary flexibilities for weight loss measurements described above, we propose that the waiver of the minimum weight loss requirements for beneficiary eligibility in the ongoing maintenance session intervals described in § 410.14(g)(3)(iv) of the March 31st COVID-19 IFC (85 FR 19230) be ended prospectively. Thus if finalized, effective January 1, 2021, all MDPP beneficiaries would be required to achieve and maintain the required 5 percent weight loss goal in order to be eligible for the ongoing maintenance sessions, even if the COVID-19 PHE remains in place as of that date.

Beneficiary Engagement Incentives

The disruption to MDPP services caused by an applicable 1135 waiver event may cause an MDPP supplier not to have contact with an MDPP beneficiary for more than 90 consecutive calendar days. We propose to amend the definition of “engagement incentive period” to further qualify when the period ends in the case of the COVID-19 PHE or an applicable 1135 waiver event. We propose that the engagement incentive period end when the MDPP supplier has not had direct contact, either in person by telephone, or via other telecommunications technology, with the MDPP beneficiary for more than 90 consecutive calendar days during the MDPP services period, unless the lack of direct contact is due to the suspension or cancellation of MDPP services and the MDPP services are eventually resumed or restarted.

We seek comment on when the engagement incentive period should end if the MDPP services are not eventually resumed. We are considering whether we should deem the incentive engagement period to end if the applicable 1135 waiver event or COVID-19 PHE remains in effect for a certain period of time, such as one year.