

DEPARTMENT OF HEALTH CARE SERVICES

NOTICE OF GENERAL PUBLIC INTEREST AND REQUEST FOR STAKEHOLDER INPUT ON PROPOSED STATE PLAN AMENDMENT 18-0055 SEEKING TO ADD CLARIFICATION FOR SERVICES RENDERED OUTSIDE THE CLINIC FACILITY RELEASED: OCTOBER 19, 2018

This notice provides information of public interest that the Department of Health Care Services (DHCS) is seeking federal approval to add clarification for services rendered outside the clinic facility eligible for Prospective Payment System (PPS) rate for Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs). DHCS requests input from beneficiaries, providers, and other interested stakeholders concerning proposed State Plan Amendment (SPA) 18-0055, which is attached below.

DHCS plans to submit to the federal Centers for Medicare & Medicaid (CMS) SPA 18-0055, which proposes to clarify the circumstances under which FQHCs and RHCs may be reimbursed for services outside the clinic facility.

Effective January 1, 2019, DHCS proposes to allow PPS to be billed outside the clinic facility under specific circumstances. DHCS is unable to give an estimate of the increase or decrease in annual expenditures at the time of this notice as the actual number of visits rendered outside the four walls are not known. However, the average PPS rate is \$178 and fee-for-service rate is \$50 for medical services and \$30 for behavioral health services, which is a difference of \$128 to \$148 per visit, respectively. Proposed SPA 18-0055 will amend the provisions beginning on page 6W.10 of Section 4.19-B within the California State Plan, as provided below.

If you would like to view the SPA in person once it becomes available, please visit your local county welfare department. You may also request a copy of the SPA from the mailing address or email, below. To be assured of consideration prior to SPA submission to CMS, comments must be received no later than 5 p.m. on November 2, 2018. DHCS requests that comments be submitted via e-mail to PublicInput@dhcs.ca.gov and indicate SPA 18-0055 in the subject line. Any written comments, including with respect to the SPA's impact to access to care, may also be sent to Department of Health Care Services, Health Care Financing, 1501 Capitol Avenue, MS 4050, Sacramento, California 95899-7417. A copy of public comments may be requested in writing to the same address or e-mail inbox identified above. Any written comments may be sent to the below mailing address, or may be emailed to PublicInput@dhcs.ca.gov.

Department of Health Care Services
P.O. Box 997413, Sacramento, CA 95899-7413
Attention: Danielle Cooper

Please indicate SPA #18-0055 in the subject line or message. For a copy of submitted public comments to SPA #18-0055, please send a request in writing to the address or the email inbox identified above

Q. FQHC and RHC Services Provided Offsite (Outside the Four Walls of the Facility)

1. Definitions –

- a. **“Contracted Dental Provider” is a licensed dentist or dental practice who contracts with the FQHC for the provision of dental services outside of the FQHC’s Four Walls.**
- b. **“Distant Site” is the location where the health care provider provides Telehealth and Store and Forward Services through a telecommunication system.**
- c. **“Established patient” of the FQHC or RHC is a Medi-Cal eligible beneficiary who meets one or more of the following conditions:**
 - i. **The patient has a health record with the FQHC or RHC that was created or updated during a visit that occurred within the Four Walls of the FQHC or RHC, or during a telehealth visit, during the previous three years and meets the requirements of Section C, above.**
 - ii. **The patient is Homeless, Homebound, or a Migratory or Seasonal worker and has an established health record that was created from a visit occurring within the last three years that was provided outside the Four Walls of the FQHC or RHC, but within the FQHC’s or RHC’s service area. The visit must also meet the requirements of Section C, above.**
 - iii. **The patient is assigned to the FQHC or RHC by his or her managed care plan pursuant to a written agreement between the plan and the FQHC or RHC.**

When a health record is maintained among multiple FQHCs or RHCs within the same organization, the patient is an established patient of the organization’s FQHCs or RHCs.

- d. **“Four walls” refers to an enrolled FQHC’s and RHC’s business addresses listed on its Medi-Cal Provider Application and any addresses listed on the FQHC’s HRSA Form 5B, and mobile units and intermittent clinics as described in Section R.**
- e. **“Homebound” means the patient must have a normal inability to leave home and leaving home must require considerable and taxing effort due to either:**
 - i. **An illness or injury where there is a need for the aid of supportive devices such as crutches, canes, wheelchairs,**

- and walkers; the use of special transportation; or the assistance of another person in order to leave their place of residence.
- ii. Having a documented condition such that leaving his or her home is medically contraindicated.
 - f. “Homeless” patients shall include all individuals who do not reside in a permanent residence, who do not have a fixed home or mailing address.
 - g. “Migratory or seasonal worker” means an individual who meets the definition of migratory agricultural worker in Section 330(g)(3)(A) of the Public Health Service Act or or seasonal agriculture worker in Section 330(g)(3)(B) of the Public Health Service Act.
 - h. “Originating Site” is the location where the patient is at the time Telehealth and Store and Forward Services are provided.
 - i. “Residence” or “Home” is a fixed or permanent dwelling, such as a house, including a stationary mobile home, an apartment, or a group home, transitional home, skilled nursing facility, intermediate care facility, developmentally disabled home, or other care setting.
 - j. “Telehealth” means the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient’s health care while the patient is at the originating site and the health care provider is at a distant site. Telehealth facilitates patient self-management and caregiver support for patients, and includes synchronous interactions and asynchronous store and forward transfers.
2. An FQHC or RHC service rendered outside the Four Walls does not qualify for PPS reimbursement, unless all of the following requirements are met:
- a. The service provided outside the Four Walls shall be documented with the same specificity and meet the same standards as that provided within the Four Walls;
 - b. The requirements of Section C shall continue to apply;
 - c. If the patient is assigned to a managed care plan that is responsible for the services being furnished by the FQHC or RHC, the FQHC or RHC must properly bill the managed care plan first for the services and meet the plan’s applicable credentialing requirements;

- d. The FQHC or RHC must maintain written policies that describe all the patient services that it will be furnishing outside the Four Walls and the circumstances for which the services will be rendered;
- e. All FQHC services rendered outside the four walls of the FQHC must be done in accordance with HRSA's policies and procedures for approved scope of projects; and
- f. The FQHC or RHC service meets any of the exceptions in Q.3, below.

3. Exceptions:

- a. Services rendered to FQHC or RHC homebound patients.

The FQHC or RHC may bill its PPS rate for services provided outside the Four Walls to homebound patients. The FQHC or RHC must maintain documentation demonstrating that the person is a Homebound Patient. In order to qualify for this exception, the FQHC or RHC shall meet all of the following requirements:

- i. The visit must be at the patient's residence. For RHCs, a patient's residence is the only location outside the Four Walls of an RHC that is eligible for visits to be reimbursed at the RHC's PPS rate.
- ii. The person rendering the service must be employed or under contract with the FQHC or RHC at the time the services are rendered.
- iii. The homebound patient must be an established patient of the FQHC or RHC.
- iv. Services must be rendered within the FQHC's Health Resources and Services Administration's (HRSA) approved service area.

- b) Services provided to FQHC or RHC patients in the hospital.

An FQHC or RHC may bill for services rendered to a hospitalized patient at its PPS rate, if it meets all of the following requirements:

- i. The person rendering the service is an employee or contractor of an FQHC or RHC.
- ii. The hospitalized patient is an established patient of the FQHC or RHC; for the purpose of this requirement, if a patient is less than three months old and the patient's mother meets

the definition of an established patient, the patient is deemed to be an established patient.

- iii. Services are rendered within the FQHC's Health Resources and Services Administration's (HRSA) approved service area.

c) Dental Services rendered to Established Patients by a Contracted Dental Provider

An RHC is ineligible to receive reimbursement at its PPS rate for dental services rendered outside of the RHC's Four Walls of the RHC by a Contracted Dental Provider.

An FQHC may bill its PPS rate for dental services rendered outside the Four Walls of the FQHC, if it meets all of the following requirements:

- i. The FQHC shall have a current written agreement with the Contracted Dental Provider to provide dental services outside of the Four Walls for the FQHC's Established Patients. If an FQHC chain organization includes multiple FQHCs that refer their patients to the same Contracted Dental Provider, the contract between the FQHC chain organization and the Contracted Dental Provider must include the specific service location(s) that will refer patients to the Contracted Dental Providers.
- ii. The Contracted Dental Provider cannot bill Medi-Cal separately for the same services the FQHC bills at the PPS rate.
- iii. The dental services provided by the Contracted Dental Provider must meet the requirements of The California State Plan, Limitations on Attachment 3.1A and Limitations on Attachment 3.1B, page 3E, and the requirements of the Medi-Cal Dental Program Provider Handbook.
- iv. The Contracted Dental Provider's Office must be located within the FQHC's HRSA approved service area or any county adjacent to the approved FQHC HRSA service area; and,
- v. FQHCs are prohibited from acting as a billing agent for the Contracted Dental Provider for patients who are not FQHC Established Patients. This precludes the FQHC from billing the PPS rate for any patients receiving treatment at the dental practice who are not established patients of the FQHC and who are not referred to the dental practice by the FQHC.

- vi. The FQHC must maintain written documentation of the Established Patient's initial referral to the Contracted Dental Provider and document the reason for the referral. For this purpose, an Established Patient may be a patient referred to the FQHC by his or her primary care provider for dental services. The referral must be documented in the patient health record at the FQHC. Follow up visits to complete the treatment do not require additional FQHC referrals;
- vii. FQHC chain organizations may receive reimbursement at the PPS rate for the contracted dental services at the PPS rate of the FQHC site that referred the patient to the contracted dental provider.

d) Telehealth services

An FQHC or RHC may bill at its PPS rate for Telehealth Services provided to its Established Patient, if it meets all of the following requirements:

- i. The Telehealth communication system must allow the provider at the Distant Site to view the patient's condition directly without the interposition of a third person's judgement;
- ii. The Originating Site must have a current written agreement with the Distant Site to furnish the Telehealth Services. If the Originating Site compensates the Distant Site for the provision of telehealth services, the Distant Site cannot bill for the services outside the PPS rate.
- iii. The Originating Site must provide its Established Patient with the following information:
 - (a) A description of the risks, benefits and consequences of Telehealth Services;
 - (b) The patient's right to terminate Telehealth Services at any time;
 - (c) The confidentiality protections that apply to Telehealth Services;
 - (d) A patient's right to access copies of all transmitted medical information; and,
 - (e) That the patient's information will not be disseminated to other entities without the patient's consent.
- iv. The Originating Site must document in the Established

Patients health record the patient's consent to Telehealth Services;

- v. **Telehealth services must meet all the requirements in Section C, above;**
- vi. **All health information transmitted during the delivery of Telehealth Services must be maintained by both the Originating and Distant Sites. In addition, both Originating and Distant Sites must document that the Telehealth Services were medically necessary, with the same specificity required to obtain approved treatment authorization request (TAR); and,**
- vii. **Telehealth Services provided at a Distant Site must be provided by a licensed health care provider in California.**

Billing rules:

- viii. **If the Originating Site and the Distant Site are FQHCs or RHCs that are part of the same organization, only one site may bill for the visit, even if a billable provider participates at each location.**
- ix. **If the Originating Site and the Distant Site are both FQHCs or RHCs but are not part of the same organization, both the Originating Site and Distant Site may each bill for the services at their respective PPS rates if both organizations use medically necessary billable providers. The Originating Site shall not compensate the Distant Site for the Telehealth Services rendered.**
- x. **If the Originating Site is an FQHC or RHC and the Distant Site is not an FQHC or RHC, only the Originating Site can be reimbursed for the Telehealth Service at the PPS rate if a medically necessary billable provider is used. The Originating Site is responsible for reimbursing the Distant Site for the Telehealth Service rendered to its Established patient if a payment arrangement exists.**
- xi. **If the Originating Site is not an FQHC or RHC and the Distant Site is a FQHC or RHC, the Distant Site can be reimbursed for the Telehealth Service at the PPS rate. The Originating Site shall not compensate the Distant Site for the Telehealth Services.**

e) Store and Forward Telehealth Services

An FQHC or RHC may bill at its PPS rate for ophthalmology, dermatology, and dentistry Store and Forward Services provided to its Established Patient, if it meets all of the following requirements:

- i. The Originating Site FQHC or RHC shall comply with the informed consent provision of Section 2290.5 of the Business and Professions Code prior to its Established Patient receiving ophthalmology, dermatology and dentistry Store and Forward Services;
- ii. If the Distant Site providing Store and Forward Services is also an FQHC or RHC, the Originating Site may only bill for one visit at its PPS rate, even if the services provided at the Distant Site occurred on a different day. Under no circumstances can two visits be billed for a single Store and Forward Service;
- iii. If the Distant Site is not an FQHC or RHC, the following requirements must be met for the Originating Site FQHC or RHC to be reimbursed at the PPS rate:
 - (a) Only one visit can be reimbursed at the PPS rate regardless of the services rendered at the Originating Site;
 - (b) The Originating Site FQHC or RHC must have an arrangement or current written agreement with the Distant Site to furnish the Store and Forward Services;
 - (c) The Originating Site FQHC or RHC must compensate the Distant Site for the Store and Forward Services furnished to its patients; and,
 - (d) The Distant Site must not directly bill Medi-Cal for the Store and Forward Services.
- iv. When the Originating Site and the Distant Site are FQHCs or RHCs that are part of the same organization, only one site may bill for the visit;
- v. The information provided to through Store and Forward Services must be specific to the patient's condition and adequate to support any subsequent treatment as a result of the Distant Site's review of the information;
- vi. The FQHC or RHC must notify its Establish Patient of their right to request and receive interactive communication with a physician, optometrist, or dentist at the Distant Site; and,
- vii. If the FQHC or RHC patients requests interactive

communication with the Distant Site specialist, the FQHC must arrange for a consultation with the Distant Site specialist physician, optometrist within 30 days of the patient's notification.

f) Services to the Homeless and to Migratory or Seasonal Workers

An FQHC may bill for a visit at the PPS rate for services rendered to Homeless patients or to patients who are migratory or seasonal workers outside the Four Walls of the FQHC if it meets all of the following requirements:

- i. Services must be rendered within the FQHC's Health Resources and Services Administration's (HRSA) approved service area.
- ii. The services provided must be rendered by a billable health professional who is employed or under contract with the FQHC at the time the services are furnished.
- iii. The FQHC must document the services provided were medically necessary.
- iv. The FQHC health record must document if the beneficiary was homeless, or a Migratory or Seasonal Worker.

R. Mobile Units and Intermittent Clinics

Visits occurring at an intermittent clinic site, as defined in subdivision (h) of Section 1206 of the Health and Safety Code, or in a mobile unit as defined by Section 1765.105(b) of the Health and Safety Code, shall be billed by and reimbursed at the same rate as the FQHC establishing the intermittent clinic site or the mobile unit, or the same rate as the RHC establishing a mobile unit except as provided in paragraph (3) below.

1. RHCs are prohibited from receiving reimbursement at the PPS rate for intermittent clinics that are not separately licensed.
2. A licensed FQHC must notify the Department of the intermittent clinic site, the address of the intermittent clinic prior to receiving reimbursement at the PPS rate for services provided at the location. An FQHC that establishes or affiliates with an intermittent clinic exempt from licensure and/or a mobile unit, must notify DHCS in accordance with all applicable state regulations and statutes of the

separate intermittent clinic location and/or mobile unit, prior to receiving reimbursement at the PPS rate.

3. When an FQHC or RHC organization has multiple FQHCs or RHCs sites, the PPS rate used to reimburse intermittent clinics and mobile units shall be based on the PPS rate of the FQHC or RHC in the organization that:
 - a. Furnishes the same or predominantly overlapping services as the services that will be furnished by the intermittent clinic or mobile unit;
 - b. Furnishes services predominantly to a patient population that is comparable to the patient population that will be served by the intermittent clinic or mobile unit; or
 - c. Exercises supervisory and/or administrative oversight over the intermittent clinic or mobile unit, as demonstrated by the policies and procedures of the FQHC or RHC.
 - d. With respect to intermittent clinics only, the FQHC is physically closest to the intermittent clinic.

4. A licensed mobile unit does not have to meet the hours of service requirements applicable to an intermittent clinic that is exempt from licensure.

All FQHC services rendered at intermittent service sites and mobile units of the FQHC must be done in accordance with HRSA's policies and procedures for approved scope of projects.