



# Health Care Reform in Indian Country

Self-Governance Communication & Education

*Self-Governance Tribes Striving Towards Excellence in Health Care*

## Tribal Best Practices:

Use of OMB Encounter Rate for Outpatient  
Prescription Drugs (OPDs)  
for Indian Health Care Providers

April 2, 2019

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[TribalSelfGov.org](http://TribalSelfGov.org)


# Background: Federal Action on Use of OMB Encounter Rate for OPDs

- CMS issued a final rule (CMS-2345-FC) on February 1, 2016, which implemented provisions of the Affordable Care Act (ACA) pertaining to Medicaid reimbursement for outpatient prescription drugs (OPDs).
- In response to the earlier proposed rule, Tribal organizations raised concerns about losing option of the OMB encounter rate for payment to Indian Health Service and Tribal (I/T) pharmacies.
  - CMS clarified that paying I/T pharmacies using the encounter rate satisfies requirements of the rule.
  - CMS also noted that *states must comprehensively describe the payment methodology for reimbursing I/T/U pharmacies, including an indication of whether the state will use the encounter rate for I/T pharmacies.*
  - If not already in compliance, state Medicaid agencies needed to submit State Plan Amendment (SPA), with an effective date no later than April 1, 2017.
- **Issuance of the rule created opportunities to evaluate preferred option(s) for Medicaid reimbursement to I/Ts for OPDs.**
  - **Use of OMB encounter rate has proven beneficial to I/T programs in many in states.** (\$455 outpatient rate; 6.6% increase over 2018)



# State-by-State Survey of Medicaid State Plans Regarding Reimbursement to I/T/U Pharmacies

- TSGAC conducted state-by-state survey of Medicaid OPD payment policies.
  - Attachment 1 (page 4): Summary of 35 state survey.
  - Attachment 2 (page 5): Two examples of State Plans permitting multiple encounters per day.
  - Attachments 3, 4 and 5 (page 6, 7 and 8): Three examples of State Plans using OMB encounter rate.



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**Medicaid Pharmacy Reimbursement for Indian Health Care Providers:  
Potential for Using the OMB Encounter Rate<sup>1</sup>**

December 17, 2018 (updated)

This Tribal Self-Governance Advisory Committee (TSGAC) brief seeks to provide guidance to Tribal health programs on Medicaid reimbursement for covered outpatient drugs (CODs). Specifically, this brief discusses the potential for reimbursing Indian Health Service (IHS), Tribal, and urban Indian organization (Indian health care providers (IHCP); or I/T/U) pharmacies at the Office of Management and Budget (OMB) encounter rate (aka the “OMB rate” or “IHS All-Inclusive Rate”).

Background

State Medicaid programs generally reimburse pharmacies for CODs based on a two-part formula consisting of the ingredient cost of a drug and a professional dispensing fee. States have the flexibility to determine reimbursement rates, consistent with applicable statutory and regulatory requirements. These reimbursement rates require approval by the federal Centers for Medicare and Medicaid Services (CMS) through the State Plan Amendment (SPA) process.

State Medicaid programs reimburse I/T/U pharmacies using a variety of methods. Some states



# State-by-State Survey of Medicaid State Plans Regarding Reimbursement to I/T/U Pharmacies

Table 1. Medicaid Payment Methodologies

- Summary of Medicaid payment methodologies for reimbursing I/T or I/T/U pharmacies in states with federally recognized Tribes

State	Has Specific Payment Methodology for I/T or I/T/U Pharmacies		Has Received Approval for SPA to Comply with CMS-2345-FC <sup>1</sup>		Pays at the Encounter Rate <sup>2</sup>		Notes on Specific Payment Methodologies for I/T or I/T/U Pharmacies
	Yes	No	Yes	No	Yes	No	
Alabama		X	X			X	--
Alaska	X		X			X	For drugs purchased through the Federal Supply Schedule (FSS), Alaska makes payments to I/T/U pharmacies not exceeding the acquisition cost, plus pays a professional dispensing fee.
Arizona	X			X	X		For drugs dispensed to adults ages 18 and older and for vaccine administration, Arizona pays I/T pharmacies at the encounter rate; the state pays as many as five encounter rates per beneficiary per facility per day but does not pay more than one encounter rate per beneficiary per facility per day for pharmacy services. <sup>3</sup>
California	X		X			X	California makes payments to I/T/U pharmacies equal to the ingredient cost of drugs, plus pays a professional dispensing fee.
Colorado	X		X		X		Colorado pays I/T pharmacies at the encounter rate; the state does not pay more than one encounter rate per beneficiary per day for pharmacy services. <sup>4</sup>

- Footnotes (*PAGE 5 OF TSGAC BRIEF*)
- Source List (*PAGES 6 & 7 OF TSGAC BRIEF*)



## Findings from State-by-State Survey (1 of 2)

- Great variation in OPD payment policies for I/T/Us across states.
- 21 states not (yet) authorizing encounter rate payment for OPD at I/Ts.
  - Over last 12 months, 4 SPAs (ME, MA, MS, NM); none applying encounter rate.
  - Two states reported to be in-process.
- 11 states have not yet met CMS-2435 requirement to have I/T/U-specific payment methodology identified in State Plan.
- In states with no current I/T/U pharmacies, one state (IN) established encounter rate policy and another (VA) stated in State Plan that I/T/U payment provisions would be added when I/T/U is established in state.
- Differences in number of permissible encounter billings per beneficiary per day.
  - A total of one encounter rate per beneficiary per day (LA).
  - One encounter rate per day for OPD, plus encounters for other services (NV).
  - No limit on number of encounters billed for OPDs (OR).
- There appears to be confusion / uncertainty regarding application of encounter rate to urban Indian health programs for OPDs.
  - Possibly a result of CMS directive to states.



## Findings for State-by-State Survey (2 of 2)

### *Approaches*

- Overall encounter rate development is not anticipated to be impacted by the use of the encounter rate for OPDs, at least for lower 48 states.
- Permitting multiple encounter rate payments per beneficiary per day increases revenues to I/T/Us.
  - A variety of approaches have been used to authorize multiple same-day payments (OR, ND, WY).
- States have an option of authorizing choice of *multiple payment options* for I/T/Us, with facilities being able to elect which payment approach to adopt.



# Examples from Three States with Medicaid State Plans Reimbursing I/T Pharmacies Using the Encounter Rate

- **Nebraska:** “Tribal pharmacies will be paid the federal encounter rate.”
  - Nebraska does not pay more than one encounter rate per beneficiary per day for pharmacy services.
  - <http://www.medicaid.gov/State-resource-center/Medicaid-State-Plan-Amendments/Downloads/NE/NE-17-0003.pdf>
- **North Dakota:** “All Indian Health Service, tribal and urban Indian pharmacies are paid the encounter rate by ND Medicaid regardless of their method of purchasing.”
  - North Dakota pays one encounter rate per beneficiary per day for a single diagnosis and additional encounter rates per beneficiary per day for multiple diagnoses.
  - <http://www.medicaid.gov/State-resource-center/Medicaid-State-Plan-Amendments/Downloads/ND/ND-16-0011.pdf>
- **Utah:** “Covered outpatient drugs dispensed by an IHS/Tribal facility to an IHS/Tribal member are reimbursed at the encounter rate in accordance with the Utah Medicaid Indian Health Services Provider Manual.”
  - Utah pays one encounter rate per prescriber per day, regardless of the number of prescriptions issued by the prescriber.
  - <http://www.medicaid.gov/State-resource-center/Medicaid-State-Plan-Amendments/Downloads/UT/UT-17-0002.pdf>



# Two Examples of States Paying for Multiple OPD Prescriptions on a Single Day

- Table 2. Multiple OPD Encounter Payments (page 8 of TSGAC brief)
  - North Dakota
  - Oregon

Attachment 2

Table 2. Medicaid Payment Methodologies Allowing Reimbursement of f	
State	Encounter Rate Payment M
	<p><b>State Plan</b></p> <p><b>Attachment 4.19-B, section 32:</b> "All Indian Health Service, tribal and urban Indian pharmacies are paid the encounter rate by ND Medicaid regardless of their method of purchasing."</p> <p><b>Attachment 4.19-B, section 29:</b> "Health Services Payments to Indian Health Service (IHS) will be per encounter per day and based on the approved all-inclusive rates published each year in the Federal Register by the Department of Health and Human Services.</p> <p>An encounter for a 638 or IHS facility means an encounter between a recipient eligible for Medicaid and a health professional at or through an IHS or 638 service location.</p> <p><u>Multiple visits for different services on the same day with different diagnosis</u> IHS facilities are eligible for multiple encounter rates for multiple general covered service categories on the same day for the same recipient with a different diagnosis. ...</p> <p><u>Multiple visits for different services on the same day with the same diagnosis</u> IHS facilities are eligible for multiple encounter rates for multiple general covered service categories on the same day for the same recipient with the same diagnosis provided they are for different general covered service categories. The diagnosis code may be the same for each of the claims, but the services provided must be distinctly different and occur within different units of the facility. ...</p> <p><u>Multiple visits for the same type of service on the same day with different diagnoses</u> IHS facilities are eligible for multiple encounter rates for multiple same day visits for the same type of general covered service category if the diagnoses are different. ...</p> <p>The general covered service categories are Inpatient, Outpatient, Pharmacy, Vision, Dental, Mental Health, and EPSDT."</p>
North Dakota	
Oregon	<p><b>Attachment 4.19-B, section 12:</b> "Under an encounter rate methodology, a single rate is to be applied to [a] face-to-face contact between a health care professional and an IHS beneficiary eligible for the Medical Assistance Program for services through an IHS, AI/AN Tribal Clinic or Health Center, or a Federally Qualified Health Clinic with a 638 designation within a 24-hour period ending at midnight, as documented in the client's medical record. The I/T Pharmacy will receive one encounter per prescription filled or refilled and will not be limited to a certain number of prescriptions per day."</p>





# Checklist for Considering Adoption of OMB Encounter Rate for OPDs

- Call meeting of Tribes/Indian health care providers to agree to:
  - 1) Ask state government to explore with Tribes possibility of using OMB encounter rate for OPD services; and
  - 2) Reach agreement among Tribes to conduct in-depth analysis of encounter rate option.
- Tribes conduct in-depth analysis of current pharmaceutical costs and Medicaid reimbursement.
- Evaluate Rx utilization trends, including total pharmacy visits, high-cost drug utilization, current Medicaid payment amounts, etc.
- Prepare revenue projections based on use of OMB encounter rate.
  - Model # of allowable billable encounters per day.
- Evaluate revenue projection(s) as compared to current revenues.
- Determine preferred option(s); engage state in discussions.
- [Post implementation: evaluate impact]



# Questions and Discussion

