State of Vermont
Agency of Human Services
280 State Drive
Waterbury, VT 05671-1000
www.humanservices.vermont.gov

Jenney Samuelson, *Secretary*
[phone] 802-241-0440
[fax] 802-241-0450

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Re: Response to Public Comments for Global Commitment Resister (GCR) Policy 23-025: RBRVS Fee Schedule Update

The Department of Vermont Health Access (DVHA) response to public comments on this policy change, as well as a summary of the comments received, is below. DVHA received 40 public comments on this proposed policy for the RBRVS Fee Schedule Update. DVHA received comments from mental health clinicians, Vermont Medical Society, and Health First.

Comment:
Nearly all of the comments received were from private practice mental health clinicians that focused on mental health rates and psychotherapy codes that are included as part of the RBRVS fee schedule. Many commenters specifically opposed the decrease in reimbursement for codes 90832, 90834, and 90837. Commenters opposed fee reductions during this time of economic hardship and high inflation. Many commenters indicated that this decrease in reimbursement for mental health services will lead them to reconsider their Medicaid caseload, or their Medicaid participation entirely. Commenters expressed concern that this will lead to longer wait times for Medicaid patients, higher and more intensive care needs, and increase the cost of care overall.

State Response:
The Department of Vermont Health Access (DVHA) appreciates these comments and the opportunity to provide further information on this update to the Resource-Based Relative Value Scale (RBRVS) fee schedule.

The psychotherapy codes included in the comments received are part of the RBRVS fee schedule. This fee schedule is the same underlying system used by Medicare. It sets rates for nearly all medical services covered by Medicaid. The RBRVS fee schedule uses cost data to determine how much resources are needed to provide a particular service relative to all other services. It is maintained by the Centers for Medicare and Medicaid Services (CMS) for use in the federal Medicare program and is updated annually to reflect new data and other policy changes.

Each procedure in the RBRVS fee schedule is assigned a number of relative value units (RVUs). The number of units determines the payment level for the procedure. There are three geographically-adjusted components that comprise an RVU. These components are:

1. **Physician work**, including the time and clinical skill necessary to treat a patient during the encounter.
2. **Practice expense**, including labor costs as well as expenses for building space, equipment, and office supplies.

3. **Professional liability insurance expense**, including the cost of malpractice insurance premiums.

The total RVU is then multiplied by a Vermont Conversion Factor, which is a value that converts the RVU into a dollar amount.

***Physician Work + Practice Expense + Liability Insurance Expense* = Relative Value Unit (RVU)**

***RVU x Vermont Conversion Factor* = Dollar amount paid for procedure**

The codes specified in the comments are billed to Medicaid by health care providers who provide psychotherapy to a patient. Effective 03/15/2023, the Conversion Factor, RVUs and VT Specific Geographic Practice Cost Indices (GPCIs) all decreased based on the decreases embedded within the 2023 CMS RBRVS Physician Fee Schedule. Psychotherapy codes followed the same overall trend.

It is not preferable to pull a single service or select services from the RBRVS fee schedule for the following reasons:

- It requires amending the Medicaid State Plan and would require justification and supporting data on the need for deviation from the methods for rate setting.
- It requires procedures that deviate from standard operating procedures and are at high risk for errors in implementation or updates.
- It results in arbitrary rates for specific services that are not based on recent cost and utilization data.

When additional appropriations are made available to DVHA through the state budgeting process, DVHA will implement changes to the Vermont-specific conversion factor for the corresponding state fiscal year.

Comment:
Vermont Medical Society (VMS) and Health First oppose the $380,551 overall cut to the RBRVS fee schedule and asks that DVHA pause implementation of any rate reductions until the Vermont legislature has finalized their SFY2024 budget deliberations. Both organizations urge DVHA to reconsider following the federal Medicare Physician Fee Schedule, and to commit to increasing reimbursement rates.

Health First notes that independent practices are particularly vulnerable to cost changes and that twelve such practices have closed since 2017, with the primary cause being financial insolvency due to expenses outpacing reimbursements.

VMS requests that the RBRVS fee schedule be adjusted based on the 2023 Medicare Economic Index (MEI) inflation factor of 3.8%, as the federal Medicare Physician Fee Schedule does not receive an inflationary adjustment. VMS also requests that Medicaid's rates for primary care services be set at 110% of Medicare rates.

State Response:
DVHA appreciates the comments from Vermont Medical Society and Health First on the RBRVS Fee Schedule Update. This RBRVS fee schedule update intersects with the budget appropriations that are made to DVHA and the Medicaid program. When additional appropriations are made available to DVHA through the state budgeting process, DVHA will implement changes for the corresponding state fiscal year.

DVHA strives to be a predictable and reliable payer of health care services. DVHA demonstrates these attributes standardizing fee schedules, including aligning the Resource-Based Relative Value Scale (RBRVS) fee schedule with Medicare, and updating rates at regular intervals. DVHA's annual rate adjustments align with Medicare's most up-to-date adjustments. The RBRVS fee schedule is the same underlying system used by Medicare to reimburse for professional services. It sets rates for nearly all medical services covered by Medicaid. The RBRVS fee schedule relies on national cost data to determine what resources are needed to provide a particular service relative to all other services. It is maintained by the Centers for Medicare and Medicaid Services (CMS) for use in the federal Medicare program and is updated annually to reflect new data and other policy changes. From year to year, changes in Medicare's methodology results in changes to payment rates and these changes are then reflected in Vermont Medicaid's payment rates.