

CHAPTER 11-000 INDIAN HEALTH SERVICE (IHS) FACILITIES

11-001 Definitions

Encounter: A face-to-face visit, including telehealth services provided in accordance with 471 NAC 1-006, between a health care professional and an individual eligible for the provision of medically necessary Medicaid-defined services in an IHS or Tribal (638) facility within a 24-hour period ending at midnight, as documented in the client's medical record.

Indian or Indians: An individual who meets any of the definitions in 25 U.S.C. §§1603(3), 1603(13), and 1679, or who has been determined eligible, as an Indian, pursuant to 42 C.F.R. §§136.1 and 136.12 or Title V of the Indian Health Care Improvement Act, to receive health care services from Indian health care providers (IHS, an Indian Tribe, Tribal Organization, or Urban Indian Organization – I/T/U) or through referral under Contract Health Services (25 U.S.C §1603(5)).

Indian Health Service (IHS): An agency within the United State Department of Health and Human Services, which is responsible for providing federal health services to American Indians and Alaska Natives.

IHS Provider: A health care program, including contract health services (25 U.S.C §1603(5)), operated by the Indian Health Service or by an Indian Tribe, Tribal Organization, or Urban Indian Organization as those terms are defined 25 U.S.C. §1603. This includes Hospitals, Hospital Based Facilities, Pharmacies and outpatient clinics.

IHS Supplier: A freestanding (non-hospital based) entity that furnishes durable medical equipment, prosthetics, orthotics, supplies, and parenteral or enteral nutrition.

IHS Physician or Practitioner: Physician and non-physician practitioners billing for services under Medicaid.

11-002 Provider Requirements

11-002.01 General Provider Requirements: To participate in the Nebraska Medical Assistance Program (Medicaid), IHS facilities shall comply with all applicable participation requirements codified in 471 NAC Chapters 2 and 3. In the event that provider participation requirements in 471 NAC Chapters 2 or 3 conflict with requirements outlined in this 471 NAC Chapter 11, the individual provider participation requirements in 471 NAC Chapter 11 shall govern.

11-002.02 Service Specific Provider Requirements: Medicaid accepts IHS facilities as Medicaid providers on the same basis as other qualified providers. The facilities shall meet all applicable standards for licensure by the Nebraska Department of Health and Human Services, Division of Public Health (Licensure Unit), but need not be licensed. The absence of Nebraska licensure of

any staff member of an IHS facility may not be regarded as failure to meet the standards for licensure of the facility, so long as that member is licensed in another state. The Department verifies the Indian Health Service facility status by contacting the appropriate Indian Health Service area office.

11-002.02A Provider Agreement: An Indian Health Service facility shall submit to the Department (Medicaid) Form MC-19, "Medical Assistance Provider Agreement," (See 471-000-91) and Form CMS-1539, "Medicare/Medicaid Certification and Transmittal," (see 471-000-66). Medicaid must approve enrollment before making payment to the IHS facility. A non-hospital-based provider who has met the Nebraska Department of Health and Human Services Regulation and Licensure standards shall submit to the Department Form MC-19, "Medical Assistance Provider Agreement," (see 471-000-90). Medicaid must approve enrollment before making payment to the provider.

11-002.02B Compliance with Provider Requirements: In addition to the limitations and requirements outlined in this 471 NAC Chapter 11, IHS Providers shall comply with all applicable limitations in 471 NAC Chapters 1, 2 and 3, and all requirements outlined in each applicable service specific chapter in Title 471 of the Nebraska Administrative Code. As an example, IHS Providers of Dental Services must comply with both provider and service delivery limitations and requirements outlined in 471 NAC Chapter 6. IHS Providers of Pharmacy Services must comply with both provider and service delivery limitations and requirements in 471 NAC Chapter 16. These requirements apply to all services provided by IHS providers under the provisions of this 471 NAC Chapter 11.

11-003 Service Requirements

11-003.01 General Requirements

11-003.01A Eligibility: Medically necessary services will be made available to any Indian, as that term is defined herein, who is also determined to be eligible for Medicaid in accordance with Title 477 of the Nebraska Administrative Code.

11-003.01B Services Provided for Clients Enrolled in the Nebraska Medicaid Managed Care Program: See 471 NAC 1-002.01.

11-003.01C HEALTH CHECK (EPSDT) Treatment Services: See 471 NAC Chapter 33.

11-003.01D Copayments / Cost Sharing: American Indians or Alaskan Natives who are eligible for, and have received, Medicaid covered services from an IHS or Tribal (638) facility shall be exempt from all copayment and cost sharing obligations.

11-003.02 Covered Services

11-003.02A Scope of an Encounter: An encounter includes:

1. A practitioner visit which may be a:
 - a. Physician, doctor of osteopathy, physician assistant, nurse practitioner, or certified nurse midwife;

- b. Dentist;
 - c. Optometrist;
 - d. Podiatrist;
 - e. Chiropractor;
 - f. Speech, audiology, physical or occupational therapist;
 - g. Mental health provider such as a psychologist, psychiatrist, licensed mental health practitioner, certified drug and alcohol counselor, or a certified nurse practitioner providing psychotherapy or substance abuse counseling or other treatment with family and group therapy; or,
 - h. Pharmacist.
2. Diagnostic services such as:
 - a. Radiology;
 - b. Laboratory;
 - c. Psychological testing; or,
 - d. Assessment (mental health)
 3. Supplies used in conjunction with a visit such as dressings, sutures, etc.;
 4. Medications used in conjunction with a visit such as an antibiotic injection; and,
 5. Prescribed drugs dispensed as a part of the encounter.

11-003.02B Encounters: Visits with more than one health professional, and multiple visits with the same health professional, that take place during the same day within the IHS or Tribal (638) facility constitute a single encounter.

11-003.02B1 Exceptions:

- a. When the patient is seen in the clinic, or by a health professional, more than once in a 24-hour period for distinctly different diagnosis. Documentation must include unrelated diagnosis codes;
- b. When the patient must return to the clinic for an emergency or urgent care situation subsequent to the first encounter that requires additional diagnosis or treatment;
- c. When a patient requires a pharmacy encounter in addition to a medical health professional or mental health encounter on the same day. Medicaid covers only one pharmacy encounter per day; or,
- d. When the patient is seen in the clinic by a clinical social worker or psychologist for a mental health encounter in addition to a medical health professional encounter on the same day.

11-003.03 Non-Encounter Services: Services rendered outside the office setting, office services that do not meet the criteria for the encounter, non-IHS Facility services, pharmacy services that are not provided by a designated tribal pharmacy or pharmacist, or services provided to non-American Indian or non-Alaskan Native clients. Examples of non-encounter services include, but are not limited to: Inpatient hospital visits, home and nursing facility visits, home health visit, durable medical equipment, ambulance, brief visit with nurse for blood pressure check, telehealth or telephone consultations.

11-004 Billing and Payment for IHS or Tribal (638) Facility Services

11-004.01 Billing

11-004.01A General Billing Requirements: Providers shall comply with all applicable billing requirements codified in 471 NAC Chapter 3. In the event that individual billing requirements in 471 NAC Chapter 3 conflict with billing requirements outlined in this 471 NAC Chapter 11, the individual billing requirements in 471 NAC Chapter 11 shall govern.

11-004.01B Specific Billing Requirements: The hospital-based facility shall submit all claims for payment for services to Medicaid clients on Form CMS-1450 or the standard electronic Health Care Claim: Institutional transaction (ASC X12N 837). Non-hospital-based providers shall use the appropriate claim form or electronic format (see Claim Submission Table at Appendix 471-000-49). All IHS Providers shall comply with applicable billing instructions in Appendix 471-000-62.

11-004.01B1 Non-Encounter Charges: IHS Providers may provide services outside of those that meet encounter criteria. Services covered by Medicaid, but not considered eligible for encounter reimbursement, are to be billed on Form CMS-1500 using the appropriate HCPCS codes and will be paid according to the Nebraska Practitioner Fee Schedule.

11-004.01B2 Outpatient Encounter Charges: The Indian Health Service shall bill all outpatient encounter charges provided on the same day for the same Medicaid client as one outpatient charge per day.

11-004.01B3 Inpatient Charges: The Inpatient hospital per diem rate for inpatient medical care provided by IHS facilities is published annually in the Federal Register or Federal Register Notices. In order to receive the inpatient hospital per diem rate, the IHS or Tribal 638 facility must:

- a. Be enrolled as a provider with Medicaid; and
- b. Appear on the IHS maintained listing of IHS-operated facilities and Indian health care facilities operating under a 638 agreement. It is the sole responsibility of the facility to petition IHS for placement on this list

11-004.01B4 Utilization Review: All IHS Provider claims for payment are subject to appropriate claim edits and to surveillance and utilization review upon entry into the claims processing system. The hospital utilization review abstract/summary may be requested by Department staff.

11-004.02 Payment

11-004.02A General Payment Requirements: Nebraska Medicaid will reimburse the Provider for services rendered in accordance with the applicable payment regulations codified in 471 NAC Chapter 3. In the event that individual payment regulations in 471 NAC Chapter 3 conflict with payment regulations outlined in this 471 NAC Chapter 11, the individual payment regulations in 471 NAC Chapter 11 shall govern.

11-004.02B Specific Payment Requirements:

11-004.02B1 Reimbursement: IHS or Tribal (638) facilities will be paid at the most current encounter rate established by the IHS which is published annually in the Federal Register for established services provided in a facility that would ordinarily be covered services through the Nebraska Medicaid Program. Medicaid reimburses IHS facilities for inpatient and outpatient services at the Medicare/Medicaid rates established by the federal Department of Health and Human Services (DHHS).

11-004.02B2 Rate Methodology: Rate changes are effective the first day of the month following the Department's receipt of the Medicare Interim Rate Notice, and will be applied retroactively to the federal effective date. Because specific Medicare/Medicaid rates are used and there is 100 percent federal match of these costs, Medicaid will not make an end-of-year settlement for Indian Health Service facilities.