

Title 10
DEPARTMENT OF HEALTH AND MENTAL HYGIENE
Subtitle 09 MEDICAL CARE PROGRAMS
10.09.06 Adult Residential Substance Use Disorder Services

Authority: Health-General Article, §§2-104(b), 7.5-204(c), 7.5-205(d), 15-105(b), Annotated Code of Maryland

.01 Scope.

This chapter governs residential substance use disorder services for adults effective July 1, 2017.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) “30-day span of care” means a continuous stay of up to 30 days in an institution for mental disease.

(2) “Accrediting body” means an entity approved by the Secretary or the Secretary’s designee, under Health-General Article, §19-2302, Annotated Code of Maryland.

(3) “Administrative day” means a day of services rendered to a participant who no longer requires the level of care the provider is licensed to deliver, but still requires the level of care in an ASAM Level 3.3, 3.5, or 3.7 setting.

(4) “Administrative service organization (ASO)” means the entity under contract with the Department to provide administrative services to operate the Maryland Public Behavioral Health System.

(5) “American Society of Addiction Medicine (ASAM) Criteria” means an instrument designed to indicate placement guidelines for admission, continued stay, and discharge of individuals with a substance use disorder.

(6) “Assessment” means the process of ascertaining the treatment needs of an individual seeking behavioral health services.

(7) “Available” means a staff member is on site, available by phone, or on call.

(8) “Behavioral Health Administration” means the administration within the Department that establishes regulatory requirements that behavioral health providers are to maintain in order to become certified or licensed by the Department.

(9) “Certified counselor” means a provider approved by the Board of Professional Counselors and Therapists under COMAR 10.58.

(10) “Coordinating aftercare services” means being responsible for assisting participants with resources, appointments, and discharge plans.

(11) “Crisis intervention” means the methods used to offer short term immediate help to individuals who have experienced an event that produces mental, physical, emotional, and behavioral distress.

(12) “Department” means the Maryland Department of Health, which is the single State agency designated to administer the Maryland Medical Assistance Program under Title XIX of the Social Security Act, 42 U.S.C. §1396 et seq.

(13) “Discharge plan” means a written description of specific goals and objectives to assist the participant upon leaving treatment.

(14) "Documentation" means the written medical record.

(15) "Evidence-based practice" is a Behavioral Health Administration-approved practice that applies to certain clinical or rehabilitative interventions provided by public mental health service providers.

(16) "Facility director" means an individual on staff who is responsible for overseeing the daily operation of the residential treatment facility.

(17) "Individualized treatment plan" means a written plan that:

- (a) Addresses the individual's biopsychosocial needs through goals and objectives; and
- (b) Is updated as needed according to the treatment modality.

(18) "License" means the approval issued by the Secretary or designee that permits a behavioral health provider to operate in Maryland.

(19) "Licensed mental health clinician" means a staff member who is eligible to provide mental health services as outlined in COMAR 10.09.59.04A.

(20) "Maryland Medical Assistance Program" means the program of comprehensive medical and other health-related care for indigent and medically indigent individuals.

(21) "Medically necessary" has the meaning stated in COMAR 10.09.36.01.

(22) "Office of Health Care Quality" means the office within the Department responsible for licensing and inspection of programs for the Behavioral Health Administration.

(23) "Participant" means an individual who is certified as eligible for, and is receiving, Medical Assistance benefits.

(24) "Participant census" means a record of participants actively in the care of the provider.

(25) "Program" means the Maryland Medical Assistance Program.

(26) "Progress note" means an objective documentation of the participant's progress in relation to specific treatment goals and objectives.

(27) "Provider" means a residential treatment facility that provides professionally directed evaluation, observation, medical monitoring, and addiction treatment in an inpatient setting.

(28) "Substance use disorder" means a maladaptive pattern of substance use leading to clinically significant impairment or distress and manifested by recurrent and significant adverse consequences related to the repeated use of substances.

(29) "Substance use disorder services" means the services for which a participant's diagnosis and treatment provider meet the criteria specified in COMAR 10.09.70 and this chapter.

.03 Licensure Requirements.

To participate in the Program, a provider shall:

A. Meet the license requirements stated in COMAR 10.09.36.02 and after April 1, 2018, 10.63.01.05;

B. Be accredited by a Maryland approved accrediting body; and

C. Be licensed by the Office of Health Care Quality for each level of care.

.04 Conditions for Participation.

A. A provider shall meet all conditions for participation as set forth in COMAR 10.09.36.03.

B. To participate in the Program as a residential substance use disorder provider, the provider shall:

(1) Be in compliance with COMAR 10.63.03 as applicable to each ASAM level of care;

(2) Be in compliance with all ASAM requirements for each applicable level of care;

(3) Demonstrate competence in the ability to deliver a minimum of three evidence-based practice services;

(4) Complete all required documentation associated with the application process;

(5) Maintain verification of licenses and credentials, including background checks, of all professionals employed by or under contract with the provider in their respective personnel files;

(6) Maintain staffing within each ASAM level of care as described in §§C—F of this regulation;

- (7) Increase staffing within each ASAM level of care at a ratio to correspond with the participant census to meet required ASAM level of service delivery for each patient;
- (8) Maintain adequate documentation of each clinical contact with a participant as part of the medical record, which includes, at a minimum:
 - (a) An individualized treatment plan;
 - (b) The date of all clinical encounters with start and end times and a description of services provided;
 - (c) Documentation of all clinical services received by the participant;
 - (d) Progress notes updated on each day services are provided;
 - (e) An individualized discharge plan; and
 - (f) An official e-Signature, or a legible signature, along with the printed or typed name of the individual providing care, with the appropriate degree or title on all clinical progress notes;
- (9) Maintain adequate documentation indicating that the participant continues to meet the medical necessity criteria for the applicable ASAM level of care;
- (10) Make the documentation required under this subtitle, or necessary to substantiate compliance with this subtitle, available as requested to carry out required activities, to the:
 - (a) Department;
 - (b) ASO;
 - (c) Core Service Agency;
 - (d) Local Addictions Authority;
 - (e) Local Behavioral Health Authority;
 - (f) Office of Inspector General of the Department; and
 - (g) Office of the Attorney General Medicaid Fraud Control Unit; and
- (11) Comply with all federal statutes and regulations, including the Health Insurance Portability and Accountability Act, 42 U.S.C. §1320D et seq., and implementing regulations at 45 CFR Parts 160 and 164.04 Participant Eligibility and Referral.

C. A residential-medium intensity level 3.3 provider shall:

- (1) Have sufficient physician, physician assistant, or nurse practitioner services to:
 - (a) Provide initial diagnostic work-up;
 - (b) Provide identification of medical and surgical problems for referral; and
 - (c) Handle medical emergencies when necessary;
- (2) Provide therapeutic activities from 20 to 35 hours weekly;
- (3) Coordinate aftercare services through
 - (a) Peer support; or
 - (b) Licensed provider;
- (4) Have at least one staff member:
 - (a) Certified in cardiopulmonary resuscitation;
 - (b) Trained in crisis intervention; and
 - (c) On duty between 11:00 p.m. and 7:00 a.m.;
- (5) Have a part-time 20 hour per week on-site facility director; and
- (6) At a minimum, maintain the following staff:
 - (a) A physician, nurse practitioner, or physician assistant on site 4 hours per week and 1 hour on call;
 - (b) A psychiatrist or psychiatric nurse practitioner available 3 hours per week;
 - (c) A registered nurse or licensed practical nurse on site 40 hours per week;
 - (d) An on-site multi-disciplinary team consisting of:
 - (i) A clinical supervisor;
 - (ii) A licensed mental health clinician;
 - (iii) A certified counselor under direct supervision of a counselor approved by the Board of Professional Counselors and Therapists as a supervisor; and
 - (iv) Peer support staff.

- D. A residential-high intensity level 3.5 provider shall:
- (1) Have sufficient physician, physician assistant, or nurse practitioner services to:
 - (a) Provide initial diagnostic work-up;
 - (b) Provide identification of medical and surgical problems for referral; and
 - (c) Handle medical emergencies when necessary;
 - (2) Provide a minimum of 36 hours of therapeutic activities a week;
 - (3) Coordinate aftercare services through
 - (a) Peer support; or
 - (b) Licensed provider;
 - (4) Have at least one staff member:
 - (a) Certified in cardiopulmonary resuscitation;
 - (b) Trained in crisis intervention; and
 - (c) On duty between 11:00 p.m. and 7:00 a.m.;
 - (5) Have a part-time 20 hour per week on-site facility director; and
 - (6) At a minimum, have the following staff:
 - (a) A physician, nurse practitioner, or physician assistant on site 1 hour per week;
 - (b) A psychiatrist or psychiatric nurse practitioner available 1 hour a week;
 - (c) An on-site multi-disciplinary team consisting of:
 - (i) A clinical supervisor;
 - (ii) A licensed mental health clinician;
 - (iii) Certified counselors under direct supervision of a counselor approved by the Board of Professional Counselors and Therapists as a supervisor; and
 - (iv) Peer support staff.

- E. A residential-intensive level 3.7 provider shall:
- (1) Have sufficient physician, physician assistant, or nurse practitioner services to:
 - (a) Provide initial diagnostic work-up;
 - (b) Provide identification of medical and surgical problems for referral; and
 - (c) Handle medical emergencies when necessary;
 - (2) Provide a minimum of 36 hours of therapeutic activities a week;
 - (3) Coordinate aftercare services through
 - (a) Peer support; or
 - (b) Licensed provider;
 - (4) Have at least two staff members:
 - (a) Certified in cardiopulmonary resuscitation;
 - (b) Trained in crisis management; and
 - (c) On duty between 11:00 p.m. and 7:00 a.m.;
 - (5) Have a part-time 20 hour per week on-site facility director; and
 - (6) At a minimum, have on staff a:
 - (a) Physician, nurse practitioner, or physician assistant on site 5 hours per week and 2 hours on call;
 - (b) Psychiatrist or psychiatric nurse practitioner available 10 hours per week;
 - (c) Nursing staff on site 168 hours per week, with a minimum of 56 hours provided by a registered nurse;
 - (d) On-site multi-disciplinary team consisting of:
 - (i) A clinical supervisor;
 - (ii) A licensed mental health clinician;
 - (iii) Certified counselors under direct supervision of a counselor approved by the Board of Professional Counselors and Therapists as a supervisor; and
 - (iv) Peer support staff.

F. A withdrawal management service level 3.7-WM provider shall:

- (1) Have a part-time 20 hour per week on-site facility director;

- (2) Coordinate aftercare services through
 - (a) Peer support; or
 - (b) Licensed provider; and
- (3) At a minimum, have on staff a:
 - (a) Physician, nurse practitioner, or physician assistant on site 20 hours per week and 4 hours on call;
 - (b) Psychiatrist or psychiatric nurse practitioner available 8 hours a week;
 - (c) Registered nurse on site 56 hours per week;
 - (d) Licensed practical nurse on site 112 hours per week; and
 - (e) On-site multi-disciplinary team consisting of:
 - (i) A clinical supervisor;
 - (ii) A licensed mental health clinician;
 - (iii) Certified counselors under direct supervision of a counselor approved by the Board of Professional Counselors and Therapists as a supervisor; and
 - (iv) Peer support staff.

.05 Participant Eligibility and Referral.

- A participant is eligible for substance use disorder services in this chapter if the participant:
- A. Is enrolled in the Program and is not enrolled in Medicare on the day a service is rendered;
 - B. Meets the Department's medical necessity criteria based on the ASAM placement criteria for each level of care; and
 - C. Is 18 years old or older and is not receiving care from a provider under COMAR 10.09.23.04.

.06 Covered Services.

- A. A residential-medium intensity level 3.3 provider shall:
 - (1) Provide clinically-managed substance use disorder treatment 20 to 35 hours weekly based on a comprehensive assessment; and
 - (2) Provide services in a structured environment in combination with medium-intensity treatment and ancillary services to support and promote recovery.
- B. A residential-high intensity level 3.5 provider shall:
 - (1) Provide clinically-managed substance use disorder treatment at least 36 hours per week based on a comprehensive assessment; and
 - (2) Provide services in a highly-structured environment, in combination with moderate- to high-intensity treatment and ancillary services to support and promote recovery.
- C. A residential-intensive level 3.7 provider shall:
 - (1) Provide medically-monitored, intensive substance use disorder treatment at least 36 hours per week based on a comprehensive assessment; and
 - (2) Offer a planned regimen of 24-hour professionally directed evaluation, care, and treatment in an inpatient setting.
- D. A withdrawal management service level 3.7-WM provider shall offer 24-hour medically supervised evaluation and withdrawal management.

.07 Limitations.

The Program does not cover the following in a residential substance use disorder treatment facility for adults:

- A. Services not medically necessary;
- B. ASAM Level 1 or 2 services by any provider;
- C. Services not specified in Regulation .06 of this chapter;
- D. Services beyond the provider's scope of practice;
- E. Investigational and experimental drugs and procedures;
- F. More than two 30-day spans of care in a 12-month period;

- G. Services rendered but not appropriately documented; and
- H. Services not preauthorized as required in Regulation .08 of this chapter.

.08 Authorization Requirements.

A. The provider shall obtain authorization from the ASO to provide residential substance use disorder services outlined in Regulation .06 of this chapter.

B. The ASO agent shall authorize services that are:

- (1) Medically necessary for the applicable level of service as outlined by ASAM criteria for admission; and
- (2) Of a type, frequency, and duration that are consistent with expected results and cost-effectiveness.

C. No payment shall be rendered for services that have not been authorized by the Department or its designee.

.09 Payment Procedures.

A. General policies governing payment procedures that are applicable to all providers are set forth in COMAR 10.09.36.04.

B. Billing time limitations for claims submitted under this chapter are set forth in COMAR 10.09.36.06.

C. Effective July 1, 2017, rates for the services outlined in this chapter shall be as follows.

- (1) For ASAM Level 3.3, the provider shall receive \$189.44 per diem;
- (2) For ASAM Level 3.5, the provider shall receive \$189.44 per diem;
- (3) For ASAM Level 3.7, the provider shall receive \$291.65 per diem; and
- (4) For ASAM Level 3.7-WM, the provider shall receive \$354.67 per diem.

D. Administrative Days. The Department shall pay at the daily rate based on the patient's ASAM level of care when:

(1) The participant's required level of care has changed, and the following conditions are met:

- (a) The provider has implemented a predischarge planning program and initiated placement activities for the participant at the earliest appropriate time;
- (b) The provider has actively pursued placement of the participant at the required level of care in an appropriate facility during the entire period of administrative days;
- (c) The provider has submitted documentation to the Department or its designee that it has complied with the requirements of §D(1)(a)—(c) of this regulation for the entire period of the administrative stay claimed for reimbursement; and
- (d) The participant is transferred promptly to the first available appropriate facility licensed and certified for the required level of care; and

(2) The participant is at an inappropriate level of care but cannot be moved, and the following conditions are met:

- (a) The attending physician has declared that, because of physical or emotional problems, the participant is unable to be moved; and
- (b) The reason the participant cannot be moved is adequately documented by the attending physician in the participant's record.

.10 Recovery and Reimbursement.

Recovery and reimbursement shall be as set forth in COMAR 10.09.36.07.

.11 Cause for Suspension or Removal and Imposition of Sanctions.

Causes for suspension or removal and imposition of sanctions shall be as set forth in COMAR 10.09.36.08.

.12 Appeal Procedures.

Appeals procedures shall be as set forth in accordance with COMAR 10.09.36.09.