

MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES

NOTICE OF PROPOSED POLICY

Public Act 280 of 1939, as amended, and consultation guidelines for Medicaid policy provide an opportunity to review proposed changes in Medicaid policies and procedures.

Please review the policy summary and the attached materials that describe the specific changes being proposed. Let us know why you support the change or oppose the change.

Submit your comments to the analyst by the due date specified. Your comments must be received by the due date to be considered for the final policy bulletin.

Thank you for participating in the consultation process.



Director, Program Policy Division
Bureau of Medicaid Policy, Operations, and Actuarial Services

Project Number: 2056-BHDDA **Comments Due:** October 22, 2020 **Proposed Effective Date:** March 10, 2020

Mail Comments to: Jon Villasurda

Telephone Number: 517-230-9707 **E-mail Address:** villasurdaj@michigan.gov

Policy Subject: COVID-19 Response: Specialty Behavioral Health Supports and Services

Affected Programs: Medicaid, Healthy Michigan Plan, MICHild

Distribution: Prepaid Inpatient Health Plans (PIHPs), Community Mental Health Services Programs (CMHSPs)

Policy Summary: This policy includes provisions that the Behavioral Health and Developmental Disabilities Administration (BHDDA) will employ pursuant to the flexibilities afforded by federal authorities to attend to the COVID-19 emergency, including the Section 1135 Waiver, the Section 1915(c) Appendix K, and the COVID-19 1115 Waiver Demonstration. Respective policy provisions reflect modifications to specialty supports and services covered by the State Plan and early and periodic screening, diagnosis and treatment (EPSDT), BHDDA’s three 1915(c) waivers, and Michigan’s 1115 Behavioral Health Demonstration. Overall, this policy allows PIHPs and CMHSPs to provide essential services while protecting the health and wellness of beneficiaries and providers.

Purpose: The purpose of this policy is to provide temporary flexibility for providers within Michigan’s Medicaid specialty behavioral health delivery system to meet the needs of beneficiaries through alternative means while protecting the health and wellness of both parties. The provisions cited in the policy reflect specific program and operational modifications by specialty population/authority served within Michigan’s Medicaid specialty behavioral health delivery system.

Bulletin Number: MSA 20-58

Distribution: Prepaid Inpatient Health Plans (PIHPs), Community Mental Health Services Programs (CMHSPs)

Issued: September 17, 2020

Subject: COVID-19 Response: Specialty Behavioral Health Supports and Services

Effective: March 10, 2020

Programs Affected: Medicaid, Healthy Michigan Plan, MICHild

General Information

Consistent with public health emergency conditions at both the state and federal level related to COVID-19, MDHHS is issuing this policy effective March 10, 2020. This policy includes provisions that the MDHHS Behavioral Health and Developmental Disabilities Administration (BHDDA) will employ pursuant to the flexibilities afforded by federal authorities to attend to the COVID-19 emergency. The waiver authorities include the Section 1135 Waiver, the Section 1915(c) Appendix K, and the COVID-19 1115 Waiver Demonstration. Respective policy provisions pursuant to the preceding authorities reflect modifications to specialty supports and services covered by the State Plan and Early and Periodic Screening, Diagnosis and Treatment (EPSDT), BHDDA's three 1915(c) waivers, and supports and services for populations within Michigan's 1115 Behavioral Health Demonstration. Overall, this policy allows PIHPs and CMHSPs to ensure the provision of essential services whilst protecting the health and wellness of beneficiaries and providers. The sections below outline the policies for overarching operational modifications, Appendix K provisions, and the 1115/1915i requirements, respectively. Given the circumstances, this policy is intended to be time-limited, and MDHHS will notify providers of its termination.

Overarching Operational Modifications

Telehealth Services

PIHPs and CMHSPs must follow current telehealth policy provisions, including recently released bulletins MSA 20-09, MSA 20-12, MSA 20-13 and MSA 20-15, as well as any comprehensive telehealth policies that are promulgated in the future.

Health Home Encounters

MDHHS will allow the initial service encounter for the Behavioral Health Home and the Opioid Health Home to be conducted in a non-face-to-face manner.

Person-Centered Plans/Individual Plans of Service (IPOS)

The PIHP will ensure the person-centered service plan is modified to allow for additional supports and/or services to respond to the COVID-19 pandemic. In addition, the PIHP will extend pre-existing person-centered service plans and their amendments. For required in-person visits for case management/supports coordination and provider assessment/monitoring activities, MDHHS expanded telehealth options as described in Bulletin MSA 20-12. The specificity of such services, including amount, duration, and scope, will be appended as soon as possible, but no later than 30 days to ensure that the specific service is delineated accordingly to the date it was rendered. The Care Coordinator must submit the request for additional supports/services no later than 30 days from the date the service begins. The PIHP/CMHSP may contact beneficiaries or their authorized representatives telephonically, using telehealth or other available technology as appropriate.

Providers must ensure beneficiary privacy and security for any information shared via telephonic, telehealth, and video technology in accordance with (HIPAA). Pursuant to federal HIPAA COVID-19 emergency flexibilities, the state will allow for verbal or e-mail approval to authorize and commence services while awaiting the written or electronic signed document dated the day of the meeting due to COVID-19 emergency. For individuals who are unable to receive services authorized in the person-centered service plan due to current Executive Orders such as social distancing and visitation, MDHHS will allow services to be furnished on a less than monthly basis in lieu of requiring the provision of at least one waiver service monthly.

Payment to Support Acute Care

Payment will be temporarily allowed to support waiver beneficiaries in acute care or short-term institutional settings for personal, community living, behavioral and communication supports (e.g., services to promote Activities of Daily Living (ADL) and Instrumental Activities of Daily Living (IADL)) pursuant to the following:

- The PIHP identified that no other alternatives are available, and an institution or hospital is the only setting that service may be offered to meet a beneficiary's health and safety needs.
- Waiver services provided will not be duplicative of hospital or short-term institutional services provided in those settings.

Behavioral Health 1915(c) Appendix K Waiver

Appendix K is a standalone appendix approved as an amendment by the Centers for Medicare & Medicaid Services (CMS) for the behavioral health 1915(c) waivers: The Children's Waiver Program (CWP), the Waiver for Children with Serious Emotional Disturbances (SEDW), and the Habilitation Supports Waiver (HSW).

Appendix K: Waiver Services Limits

MDHHS will allow temporary service limitations to be exceeded for requirements regarding amount, duration, and prior authorization to address health and welfare issues presented by the COVID-19 emergency. Specific provisions by HSW, CWP, and SEDW include the following, respectively:

A. Habilitation Supports Waiver (HSW)

1. Out-of-Home Non-Vocational Habilitation:
 - Allow for in-home non-vocational habilitation.
 - Temporarily remove the frequency of one or more days per week.
2. Private Duty Nursing (PDN):
 - Temporarily suspend 16 hour/day limit on PDN services when increased hours are medically necessary.
 - Temporarily allow PDN services to be provided without the beneficiary receiving at least one of the habilitative services through the waiver.
3. Non-family training:
 - Temporarily suspend the limit of up to four sessions per day, no more than 12 sessions per 90-day period, when increased sessions are needed in training new providers to provide Community Living Supports (CLS) and respite services.

B. Children's Waiver Program (CWP)

1. Respite:
 - Temporarily suspend the 1152 hours limit on respite services per fiscal year when increased hours are medically necessary.
2. Enhanced Transportation:
 - Temporarily suspend the requirement of transportation being limited to local distances-where local is defined as within the child's county or a bordering county.
3. Home Care Training, Family:
 - Temporarily suspend the limit of up to four sessions per day and no more than 12 sessions per 90-day period when increased sessions are needed in training the family.
4. Home Care Training, Non-Family:
 - Temporarily suspend the limit of up to four sessions per day and no more than 12 sessions per 90-day period when increased sessions are needed in training new providers.

C. Children with Serious Emotional Disturbances Waiver (SEDW)

1. Respite:
 - Temporarily suspend the limit of 1248 units per month on respite service when increased units are medically necessary.
2. Community Living Supports:
 - Temporarily suspend the limit of 744 units per month when increased units are medically necessary.

3. Home Care Training, Family:
 - Temporarily suspend the limit of up to four sessions per month when increased sessions are needed in training the family.
4. Home Care Training, Non-Family:
 - Temporarily suspend the limit of up to four sessions per calendar month when increased sessions are needed in training new providers.

Appendix K: Service Setting

MDHHS will expand service settings to allow services to be provided in the beneficiary's home or other alternate settings such as temporary hospitals/shelters/hotels/churches when the enrollee is displaced from their home because of quarantine or hospitalization, or when providers are unavailable due to illness or business closure. Respite services may be provided in the enrollee's home, the home of another trusted person, a licensed Adult Foster Care or Home for the Aged facilities, or other State-approved facilities. Respite does not include the cost of room and board in instances when the service is provided in the enrollee's home or in the home of another person.

Appendix K: Waiver Provider Qualifications

MDHHS will extend the timelines of provider training requirements during the pandemic. However, Direct Support Professional (DSP) providers must still be age 18 or older, trained in universal precautions, be competent in completing required tasks, and be able to effectively communicate with the beneficiary. All required training must be completed as soon as possible once the state of emergency is over, but not to exceed the end date of Appendix K.

Appendix K: Processes for Level of Care Evaluations or Re-Evaluations

MDHHS will extend annual Level of Care determinations that will expire during the effective period by one year past the original due date or for the duration of the approved Appendix K. Additionally, MDHHS will extend acceptance of waiver services in place of services in an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID) setting beyond the typical 36 months if the consent expires during the effective period of the pandemic. The state will allow for verbal or e-mail approval to authorize and commence services, while awaiting the written or electronic signed document due to the COVID-19 emergency in accordance with HIPAA. An updated consent must be completed as soon as possible once the effective period ends. In addition, MDHHS will temporarily extend the timeline requirements for other requisite supporting documentation (e.g. individual educational plans (IEP) from schools, medical reports for health care office, etc.) needed for evaluation of level of care when the documents are unable to be acquired due to the COVID-19 emergency. Following the termination of the COVID-19 emergency, but not to exceed the end date of the Appendix K, all pertinent supporting documentation must be obtained as soon as feasible to properly validate information.

Specialty Behavioral Health Populations within Michigan's 1115 Behavioral Health Demonstration (including the 1915(i) State Plan Services)

(Note: this section is contingent upon the approval of Michigan's COVID-19 Emergency 1115 application and/or the approval of other applicable authorities for the pertinent populations.)

Specialty Populations Covered by State Plan or the EPSDT Behavioral Health Applied Behavioral Analysis (ABA) Benefit

MDHHS will temporarily extend reassessments, re-evaluations, and prior authorizations for eligible beneficiaries enrolled in ABA services that will expire-during the effective period by one year past the original due date. Specific provisions of this flexibility include the following:

- Extension of the level of service determination
- Suspension of annual re-evaluations
- Allow for virtual/remote meetings in lieu of face-to-face meetings to conduct evaluations, assessments, identified ABA services, and person-centered service planning
- Adjust prior approval/authorization elements approved in the state plan and suspend the prior authorization requirement for telehealth services

Behavior Technician (BT)/ABA Provider Qualifications

MDHHS will suspend certain BT/ABA provider qualification requirements during the COVID-19 emergency. Specific provisions for these provider categories include the following:

- Behavior Technicians: BTs must be age 18 or older with minimum training required limited to universal precautions, competency for completing Behavior Analyst Certification Board (BACB) required tasks, and the ability to effectively communicate with the beneficiary. MDHHS will suspend the minimum clinical observation and direction (i.e., one hour of every 10 hours) of direct ABA treatment for BTs. Program-specific training requirements must be completed as soon as possible once the COVID-19 emergency period ends. The use of eligible individuals as alternative ABA staff resources must be recorded as a comment on the provider claim and in the beneficiary's record (e.g., Person-Centered Service Plan, Behavioral Plan of Care, etc.).
- Qualified Behavioral Health Professionals (QBHPs): MDHHS will suspend current standards for Behavioral Health Treatment supervisors, including a qualified Licensed Psychologist (LP), Limited License Psychologist (LLP), and master's prepared QBHPs that require certification as a Board Certified Behavioral Analysts (BCBAs) within two years of successfully completing their graduate coursework.

Institution for Mental Disease (IMD) Services for Beneficiaries with Serious Mental Illness (SMI)/Serious Emotional Disturbance (SED) for 30 Days

MDHHS will temporarily cover services for beneficiaries residing in psychiatric hospitals and residential treatment settings classified as an IMD for up to 30 days. MDHHS will not cover the following:

- Room and board
- Services provided in a nursing home that qualify as an IMD

- Services for beneficiaries 21 and younger in a setting that does not meet CMS requirements to qualify for the Inpatient Psychiatric Services for Individuals under Age 21 benefit
- Services in a psychiatric hospital or residential treatment facility for inmates who are involuntarily residing in the facility.

Public Comment

The public comment portion of the policy promulgation process is being conducted concurrently with the implementation of the change noted in this bulletin. Any interested party wishing to comment on the change may do so by submitting comments to Jon Villasurda via e-mail at: VillasurdaJ@Michigan.gov

Please include "COVID-19 Response: Specialty Behavioral Health Supports and Services" in the subject line.

Comments received will be considered for revisions to the change implemented by this bulletin.

Manual Maintenance

Information is time-limited and will not be incorporated into any policy or procedure manuals.

Questions

Any questions regarding this bulletin should be directed to Provider Inquiry, Department of Health and Human Services, P.O. Box 30731, Lansing, Michigan 48909-8231, or e-mailed to ProviderSupport@michigan.gov. When you submit an e-mail, be sure to include your name, affiliation, NPI number, and phone number so you may be contacted if necessary. Typical Providers may phone toll-free 800-292-2550. Atypical Providers may phone toll-free 800-979-4662.

Approved



Kate Massey, Director
Medical Services Administration