# COMMONWEALTH of VIRGINIA

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**TO:** **EMILY MCCELLAN**
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**FROM:** **SUSAN P. D. WHYTE** SPW
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**DATE:** **December 10, 2021**

**SUBJECT:** **Addiction and Recovery Treatment and Substance Use Disorder Service Updates (Fast-Track Regulations); 12VAC30-60-181; 12VAC30-80-32; 12VAC30-130-5060**

I am in receipt of the attached regulations to expand the substance use disorder service in accordance with the 2021 Appropriation Act, Item 313.PPPPP, incorporate approved ARTS utilization review modifications, and incorporate language that specifies the reimbursement methodology for ARTS residential levels of care (3.3, 3.5, 3.7, 4.0) services. It is my understanding that the amendments reflected in the regulations have been approved by the Centers for Medicare and Medicaid Services in a State Plan Amendment.

Based on my review, it is my view that the Director, acting on behalf of the Board of Medical Assistance Services pursuant to Virginia Code §§ 32.1-324 and 325, has the authority to promulgate these regulations subject to compliance with Article 2 of the Administrative Process Act and has not exceeded that authority.

Pursuant to Virginia Code § 2.2-4012.1, if an objection to the use of the fast-track process is received within the public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, DMAS shall (i) file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process set out in this article with the initial publication of the Fast-Track regulation servicing as the Notice of Intended Regulatory Action.

If you have any questions or need additional information about these regulations, please contact me at 804-786-3450.

cc: Kim F. Piner, Esquire

Attachment

**Project 6959 - Fast-Track**

**Department Of Medical Assistance Services**

**Addiction and Recovery Treatment and Substance Use Disorder Services Updates**

**12VAC30-60-181. Utilization review of addiction and recovery treatment services.**

A. Providers shall be required to maintain documentation detailing all relevant information about the Medicaid individuals who are in the provider's care. Such documentation shall fully disclose the extent of services provided in order to support provider's claims for reimbursement for services rendered. This documentation shall be written and dated at the time the services are rendered. Claims that are not adequately supported by appropriate up-to-date documentation may be subject to recovery of expenditures.

B. Utilization reviews shall be conducted by the Department of Medical Assistance Services or its designated contractor.

C. Service authorizations shall be required for American Society of Addiction Medicine (ASAM) Levels 2.1, 2.5, 3.1, 3.3, 3.5, 3.7, and 4.0.

D. A multidimensional assessment by a credentialed addiction treatment professional (CATP), as defined in 12VAC30-130-5020, shall be required for ASAM Levels 1.0 through 4.0. Certified substance abuse counselors (CSACs) and CSAC-Supervisees are able to complete a multidimensional assessment in ASAM Levels 2.1 to 3.5, to make recommendations for an ASAM level of care, which shall be signed and dated by a CATP within ~~one~~ three business days. The multidimensional assessment shall be maintained in the individual's record by the provider. Medical necessity for all ASAM levels of care shall be based on the outcome of the individual's multidimensional assessment.

E. Individual service plans (ISPs) and treatment plans shall be developed upon admission to medically managed intensive inpatient services (ASAM Level 4.0), substance use residential and inpatient services (ASAM Levels 3.1, 3.3, 3.5, and 3.7), and substance use intensive outpatient and partial hospitalization programs (ASAM Levels 2.1 and 2.5). ISPs or treatment plans shall be developed upon initiation of opioid treatment services (OTP), office-based ~~opioid~~ addition treatment (OB~~O~~AT), and substance use outpatient services (ASAM Level 1.0).

1. The provider shall include the individual and the family or caregiver, as may be appropriate, in the development of the ISP or treatment plan. To the extent that the individual's condition requires assistance for participation, assistance shall be provided. The ISP shall be updated at least annually and as the individual's needs and progress change. An ISP that is not updated either annually or as the individual's needs and progress change shall be considered outdated.

2. All ISPs shall be completed and contemporaneously signed and dated by the CATP preparing the ISP. For Preferred OBATS, ASAM Levels 3.1, 3.3, and 3.5, the ISP may be completed by a CSAC or CSAC-Supervisee if the CATP signs and dates the ISP within ~~one~~ three business days.

3. The child's or adolescent's ISP shall also be signed by the parent or legal guardian, and the adult individual shall sign his own ISP. If the individual, whether a child, adolescent, or adult, is unwilling or unable to sign the ISP, then the service provider shall document the reasons why the individual was not able or willing to sign the ISP.

F. A comprehensive ISP, as defined in 12VAC30-130-5020, shall be fully developed within 30 calendar days of the initiation of services. The comprehensive ISP shall be developed with the individual, in consultation with the individual's family, as appropriate, and shall address (i) a summary or reference to the individual's identified needs; (ii) short-term and long-term goals and measurable objectives for addressing each identified individually specific need; (iii) services and

supports and frequency of services to accomplish the goals and objectives; (iv) target dates for accomplishment of goals and objectives; (v) estimated duration of service; (vi) medication assisted treatment assessment, which shall be provided onsite or through referral; and (vii) the role of other agencies if the plan is a shared responsibility and the staff designated as responsible for the coordination and integration of services. The ISP shall be reviewed at least every 90 calendar days and shall be modified as the needs and progress of the individual change. Documentation of the ISP review shall include the dated signatures of the CATP and the individual. CSACs may perform the ISP reviews in ASAM Levels 3.1, 3.3, and 3.5 if a CATP signs and dates the ISP review within ~~one~~ three business days.

G. Progress notes, as defined in 12VAC30-60-185, shall disclose the extent of services provided and corroborate the units billed. Each progress note shall be individualized to the member to demonstrate the individual member's particular circumstances, treatment, and progress. Claim payments shall be retracted for services that are not supported by documentation that is individualized to the member.

H. Documentation shall include assessment and referral for medication assisted treatment as medically indicated. This shall include prescriptions for naloxone.

I. Health care entities with provisional licenses issued by DBHDS shall not be reimbursed as Medicaid providers.

**12VAC30-80-32. Reimbursement for substance use disorder services.**

A. Physician services described in 12VAC30-50-140, other licensed practitioner services described in 12VAC30-50-150, and clinic services described in 12VAC30-50-180 for assessment and evaluation or treatment of substance use disorders shall be reimbursed using the methodology in 12VAC30-80-30 and 12VAC30-80-190 subject to the following reductions for psychotherapy services for other licensed practitioners.

1. Psychotherapy and substance use disorder counseling services of licensed clinical psychologists shall be reimbursed at 90% of the reimbursement rate for psychiatrists.

2. Psychotherapy and substance use disorder counseling services provided by independently enrolled licensed clinical social workers, licensed professional counselors, licensed marriage and family therapists, licensed psychiatric nurse practitioners, licensed substance abuse treatment practitioners, or registered clinical nurse specialists-psychiatric shall be reimbursed at 75% of the reimbursement rate for licensed clinical psychologists.

3. The same rates shall be paid to governmental and private providers. These services are reimbursed based on the Common Procedural Terminology codes and Healthcare Common Procedure Coding System codes. The agency's rates were set as of July 1, 2007, and are updated as described in 12VAC30-80-190. All rates are published on the Department of Medical Assistance Services (DMAS) website at http://www.dmas.virginia.gov.

B. Rates for the following preferred office-based ~~opioid~~ addiction treatment (OB~~O~~AT) services and opioid treatment programs shall be based on the agency fee schedule: (i) initiation of medication assisted treatment with a visit unit of service; (ii) individual and group substance use disorder counseling and psychotherapy with a 15-minute unit of service; and (iii) substance use care coordination with a monthly unit of service. The agency's rates shall be set as of April 1, 2017. The Medicaid and commercial rates for similar services as well as the cost for providing services shall be considered when establishing the fee schedules so that payments shall be consistent with economy, efficiency, and quality of care. The same rates shall be paid to public and private providers. All rates are published on the DMAS website at http://www.dmas.virginia.gov.

C. Community ARTS rehabilitation services. Per diem rates for partial hospitalization (ASAM Level 2.5) and intensive outpatient services (ASAM Level 2.1) for ARTS shall be based on the agency fee schedule. The Medicaid and commercial rates for similar services as well as the cost for providing services shall be considered when establishing the fee schedules so that payments shall be consistent with economy, efficiency, and quality of care. The same rates shall be paid to governmental and private providers. The agency's rates shall be set as of April 1, 2017, and are effective for services on or after that date. All rates are published on the DMAS website at http://www.dmas.virginia.gov.

D. Reimbursement for all clinically managed low intensity residential (ASAM Level 3.1) services shall be based on the therapeutic group home (Level B) reimbursement described in 12VAC30-80-30.

E. Reimbursement for all ARTS residential levels of care (3.3, 3.5, 3.7, 4.0) services shall be based on the children's psychiatric residential treatment facility reimbursement described in 12VAC30-80-21.

~~E~~F. ARTS federally qualified health center or rural health clinic services (ASAM Level 1.0) for assessment and evaluation or treatment of substance use disorder, as described in 12VAC30-130-5000 et seq., shall be reimbursed using the methodology described in 12VAC30-80-25.

~~F~~G. Substance use case management services. Substance use case management services, as described in 12VAC30-50-491, shall be reimbursed a monthly rate based on the agency fee schedule. The Medicaid and commercial rates for similar services as well as the cost for providing services shall be considered when establishing the fee schedules so that payment shall be consistent with economy, efficiency, and quality of care. The same rates shall be paid to governmental and private providers. The agency's rates shall be set as of April 1, 2017, and are effective for services on or after that date. All rates are published on the DMAS website at http://www.dmas.virginia.gov.

~~G~~H. Peer support services. Peer support services as described in 12VAC30-130-5160 through 12VAC30-130-5210 furnished by enrolled providers or provider agencies as described in 12VAC30-130-5190 shall be reimbursed based on the agency fee schedule for 15-minute units of service. The agency's rates set as of July 1, 2017, are effective for services on or after that date. All rates are published on the DMAS website at http://www.dmas.virginia.gov.

**12VAC30-130-5060. Covered services: clinic services - preferred office-based addiction treatment.**

A. Preferred office-based ~~opioid~~ addiction treatment (OB~~O~~AT) shall be provided by a buprenorphine-waivered practitioner and may be provided in a variety of practice settings, including primary care clinics, outpatient health system clinics, psychiatry clinics, FQHCs, CSBs, BHAs, local health department clinics, and physician offices. The practitioner shall be contracted by DMAS or its contractor or an MCO to perform OB~~O~~AT services. OB~~O~~AT services shall meet the criteria established in this section.

B. OB~~O~~AT service components.

1. Access to emergency medical and psychiatric care.

2. Affiliations with more intensive levels of care such as intensive outpatient programs and partial hospitalization programs to which individuals can be referred when clinically indicated.

3. Individualized, patient-centered multidimensional assessment and treatment.

4. Assessing, ordering, administering, reassessing, and regulating medication and dose levels appropriate to the individual; supervising withdrawal management from opioid analgesics and other substances; and overseeing and facilitating access to appropriate treatment for ~~opioid~~ substance use disorder ~~and alcohol use disorder~~.

5. Medication for other physical and mental health disorders shall be provided as needed either onsite or through collaboration with other providers.

6. Assurance that ~~buprenorphine products~~ medications for opioid use disorder and alcohol use disorder are only dispensed onsite during the induction phase. After the induction phase, ~~buprenorphine products~~ medications shall be prescribed to the member.

7. Assurance that buprenorphine monoproduct is only prescribed in accordance with Board of Medicine rules related to the prescribing of buprenorphine for addiction.

8. Cognitive, behavioral, and other substance use disorder-focused counseling and psychotherapies, reflecting a variety of treatment approaches, shall be provided to the individual on an individual, group, or family basis and shall be provided by CATPs working in collaboration with the buprenorphine-waivered practitioner ~~who is prescribing buprenorphine products or naltrexone products to individuals with a primary opioid use disorder~~. These therapies can be provided via telemedicine as long as they meet DMAS requirements for an OB~~O~~A T and for the use of telemedicine. ~~(See the Medicaid Memo entitled "Updates to Telemedicine Coverage" dated May 13, 2014.)~~ Preferred OB~~O~~ATs may utilize CSACs and CSAC-supervisees to provide substance use disorder counseling and psychoeducational services within their scope of practice as defined in § 54.1-3507.1 of the Code of Virginia.

9. Substance use care coordination provided, including interdisciplinary care planning between the buprenorphine-waivered practitioner and the treatment team to develop and monitor individualized and personalized treatment plans focused on the best outcomes for the individual. This care coordination includes monitoring individual progress, tracking individual outcomes, linking the individual with community resources to facilitate referrals and respond to social service needs, and tracking and supporting the individual's medical, behavioral health, or social services received outside the practice.

10. Provision of onsite screening or referral for screening for clinically indicated infectious disease testing for diseases such as HIV; hepatitis A, B, and C; syphilis; and tuberculosis at treatment initiation and then at least annually or more often based on risk factors and the ability to provide or refer for treatment of infectious diseases as necessary.

11. Onsite medication administration treatment during the induction phase, which shall be provided by a physician, nurse practitioner, physician assistant, ~~or~~ registered nurse or licensed practical nurse.

12. Ability to provide pregnancy testing for women of childbearing age.

13. For individuals of childbearing age, the ability to provide family planning services or to refer the individual for family planning services.

C. OB~~O~~AT staff requirements.

1. Buprenorphine-waivered practitioners are required.

2. CATPs are required and shall work in collaboration with the buprenorphine-waivered practitioner ~~who is prescribing buprenorphine products or naltrexone products to individuals with a primary opioid use disorder~~. This collaboration can be in person or via telemedicine as long as it meets the department's requirements for the OB~~O~~AT setting and for telemedicine. CSACs, CSAC-supervisees, and CSAC-As are also recognized in the preferred OB~~O~~AT setting as well as registered peer recovery specialists. A registered peer recovery specialist shall meet the definition in § 54.1-3500 of the Code of Virginia.

D. OB~~O~~AT risk management shall be documented in each individual's record and shall include:

1. Random drug screening, using either urine or blood serums, for all individuals, conducted at a minimum of eight times per year. Drug screenings include presumptive and definitive screenings and shall be accurately interpreted. Definitive screenings shall

only be utilized when clinically indicated. Outcomes of the drug screening shall be used to support positive patient outcomes and recovery.

2. A check of the Virginia Prescription Monitoring Program prior to initiation of buprenorphine products or naltrexone products and at least quarterly for all individuals thereafter.

3. Prescription of naloxone.

4. O~~pioid o~~verdose prevention education, including the purpose of and the administration of naloxone and the impact of polysubstance use. Education shall include discussion of the role of medication assisted treatment and the opportunity to reduce harm associated with polysubstance use. The goal is to help individuals remain in treatment to reduce the risk for harm.

5. Periodic monitoring of unused medication and opened medication wrapper counts when clinically indicated.

6. Clinically indicated infectious disease testing for diseases such as HIV; hepatitis A, B, and C; syphilis; and tuberculosis at treatment initiation and then annually or more frequently, depending on the clinical scenario and the patient's risk. Those individuals who test positive shall be treated either onsite or through referral.

7. For individuals without immunity to the hepatitis B virus, vaccination either onsite or through referral.

8. For patients without HIV infection, pre-exposure prophylaxis to prevent HIV infection shall be offered either onsite or through referral.

9. Women of child-bearing age shall be tested for pregnancy and shall be offered contraceptive services either onsite or through referral.