

RULES AND REGULATIONS

Title 55—HUMAN SERVICES

DEPARTMENT OF HUMAN SERVICES

[55 PA. CODE CHS. 1153 AND 5200]

Outpatient Psychiatric Services and Psychiatric Outpatient Clinics

The Department of Human Services (Department) adopts this final-form rulemaking under the authority of sections 201(2) and 1021 of the Human Services Code (62 P.S. §§ 201(2) and 1021), sections 105 and 112 of the Mental Health Procedures Act (50 P.S. §§ 7105 and 7112), section 201(2) of the Mental Health and Intellectual Disability (MH/ID) Act of 1966 (50 P.S. § 4201(2)), and section 4 of the Outpatient Psychiatric Oversight Act (Act of May 31, 2018) (P.L. 123, No. 25) (OPOA). Notice of the proposed rulemaking was published at 47 Pa.B. 4689 (August 12, 2017).

Purpose of this Final-Form Rulemaking

The purpose of this final-form rulemaking is to amend Chapters 1153 and 5200 (relating to outpatient behavioral health services; and psychiatric outpatient clinics) to reflect changes in the benefit packages resulting from the implementation of Medicaid expansion under the Patient Protection and Affordable Care Act (Pub.L. No. 111-148) and the consolidation of adult benefit packages, to be consistent with the Paul Wellstone and Peter Domenici Mental Health Parity and Addiction Equity Act of 2008 (Pub.L. No. 110-343), to codify the requirements for the delivery of Mobile Mental Health Treatment (MMHT) services outlined in Medical Assistance Bulletin 08-06-18, Mobile Mental Health Treatment, issued November 30, 2006, and to comply with the OPOA requirement to promulgate regulations regarding supervision.

This final-form rulemaking is needed to amend the requirements for psychiatric time, staffing patterns and the time frames for the development, review and sign-off of initial treatment plans and updates at a psychiatric outpatient clinic. Previously, a psychiatric outpatient clinic was required to have a psychiatrist at the clinic for at least 16 hours each week and employ four full-time equivalent (FTE) mental health professionals regardless of the number of individuals being served. This final-form rulemaking amends the requirements for staffing patterns and psychiatric time by allowing 50% of the treatment staff who provide psychotherapy to be mental health professionals and requiring 2 hours of psychiatric time for each FTE mental health professional and mental health worker per week. Additionally, although 50% of the psychiatric time must be provided by the psychiatrist at the psychiatric outpatient clinic, this final-form rulemaking allows the other 50% to be provided by an advanced practice professional or by a psychiatrist off-site through the use of tele-behavioral health, or by a combination of advanced practice professionals and tele-behavioral health, consistent with the OPOA.

This final-form rulemaking allows 30 days for the development, review and sign-off of the initial treatment plan and extends the time frame for treatment plan updates to 180 days. In addition to the changes to the time frame for the treatment planning process, this final-form rulemaking allows a psychiatrist or an advanced practice professional to review and sign the initial treatment plan. Previously, only a psychiatrist could review and sign an initial treatment plan or update. This

final-form rulemaking also allows the treatment plan updates to be reviewed and signed by the primary professional providing services to the individual at the psychiatric outpatient clinic. The primary professional may be the mental health worker under the supervision of a mental health professional or a mental health professional. For individuals receiving medication management services, the primary professional may be a physician, an advanced practice professional, a certified registered nurse practitioner (CRNP) or a physician assistant (PA) prescribing medication within the practitioner's scope of practice. This final-form rulemaking will improve access to medically necessary behavioral health services including medication management services and allow licensed professionals such as advanced practice professionals, CRNPs, PAs or mental health professionals to provide services within their scope of practice when employed by a psychiatric outpatient clinic.

This final-form rulemaking eliminates the requirement that for-profit psychiatric outpatient clinics receive accreditation from the Joint Commission on Accreditation of Hospitals in addition to meeting licensure requirements. This will maintain consistent licensure requirements for both nonprofit and for-profit psychiatric outpatient clinics.

Background

Community-based psychiatric outpatient clinics are a key component of the public behavioral health system and provide an array of cost-effective clinical services and supports. Psychiatric outpatient clinics provide services in the community utilizing a recovery-based approach that support individuals with mental illness and emotional disturbance by engaging the individual in the treatment process as an equal partner, offering a variety of treatment modalities based upon clinical need and individual choice, and supporting the individual's recovery process.

In 2013, the Department convened a workgroup representing the regulated community, behavioral health managed care organizations and advocacy organizations to review and update the regulations governing psychiatric outpatient clinic services. The existing regulations limited the use of advanced practice professionals, resulting in requirements for psychiatrists that impacted their availability to provide clinical services.

The Department has utilized the input of the workgroup throughout this process to amend the regulations and appreciates the dedication and support of the workgroup members in developing this final-form rulemaking, which will improve access to services provided by psychiatric outpatient clinics.

Affected Individuals and Organizations

This final-form rulemaking affects individuals receiving psychiatric outpatient clinic services and the psychiatric outpatient clinics providing services.

Accomplishments and Benefits

This final-form rulemaking will benefit individuals seeking psychiatric outpatient clinic services by increasing the role of advanced practice professionals, expanding MMHT services to include individuals under 21 years of age, engaging individuals in the treatment planning process and supporting recovery.

This final-form rulemaking will benefit psychiatric outpatient clinics by decreasing paperwork requirements related to the development of initial treatment plans and updates, which will increase psychiatric and clinical time available to provide direct services to individuals. It will also expand the role of advanced practice professionals, clarify psychiatric supervision responsibilities and allow individuals under 21 years of age to receive MMHT services in the community. Initial treatment plans may be reviewed, approved and signed by a psychiatrist or an advanced practice professional to reduce the paperwork requirements for the psychiatrist and to maximize the psychiatrist's ability to provide the direction for the delivery of clinical services at the psychiatric outpatient clinic.

Fiscal Impact

Implementation of this final-form rulemaking will be cost neutral to the Commonwealth, local governments and the regulated community.

Paperwork Requirements

There are minor changes to paperwork requirements in this final-form rulemaking, which include changes to the following: admission policy and procedures, statement of rights policy, complaint policy and procedures, discharge summary, and a requirement to submit updated service descriptions when the required information changes. This final-form rulemaking also includes a reduction in paperwork requirements by changing the time frame to update treatment plans from every 120 days to every 180 days. Additionally, an advanced practice professional may review and sign the initial treatment plan alleviating some paperwork requirements for the psychiatrist.

Public Comment

Written comments, suggestions and objections regarding the proposed rulemaking were requested within a 30-day period following publication in the *Pennsylvania Bulletin*. The Department received 37 written responses containing 173 comments. These comments represented feedback from a broad spectrum of advocates, providers, professionals, attorneys, counties, behavioral health-managed care organizations and other organizations, including the Pennsylvania State Nurses Association, Rehabilitation and Community Providers Association, Pennsylvania Association of County Administrators of Mental Health and Developmental Services, Disability Rights Pennsylvania, Barber Behavioral Health Institute, Geisinger Health System, PA Council for Children, Youth and Families, Community Care Behavioral Health, Pennsylvania Psychological Association and the Hospital and Health Association of Pennsylvania. Additionally, the Department received comments from the Independent Regulatory Review Commission (IRRC).

Discussion of Major Comments and Changes

The following is a summary of the major comments received within the public comment period following publication of the proposed rulemaking, the Department's responses to these comments and a summary of additional changes to this final-form rulemaking.

General—convening a workgroup

Two commentators recommended that the Department convene a workgroup to review psychiatric outpatient services in the Commonwealth and continue to address issues impacting the regulated community. IRRC recommended that the Department continue to work with the regulated community during the development of this final-form rulemaking.

Response

The Department reconvened the original workgroup on October 26, 2017, to review public comments, solicit input for recommended revisions to the rulemaking and request any additional feedback on the proposed rulemaking prior to developing final-form rulemaking. Additionally, the Department held a telephone call with representatives of the Pennsylvania Psychiatric Society on October 31, 2017, to gather input into the rulemaking. The Department incorporated revisions based upon public comment and workgroup feedback into a draft rulemaking and sent it to the workgroup for final review and comment. The Department made additional edits to the rulemaking based upon the workgroup's comments to the draft document. The Department appreciates the support and dedication of the workgroup in developing this rulemaking and looks forward to ongoing collaboration as needed, including participation at regularly scheduled meetings with stakeholder organizations.

General—integrated care

IRRC and two commentators asked the Department to consider the concept of integrated care to address behavioral and physical health service. Additionally, one commentator suggested that the Centers for Medicare & Medicaid Services promotes integrated treatment through demonstration grants.

Response

The Department is currently testing the integration of physical and behavioral health services through the Certified Community Behavioral Health Clinic (CCBHC) Demonstration grant. Pennsylvania began implementation of the CCBHC Program in July 2017, as one of eight states selected to participate in the 2 year Medicaid Demonstration grant. The CCBHCs allow individuals access to a wide array of behavioral and physical health services at one location as a means to remove potential access barriers and increase coordination of care to improve health outcomes and quality of care. The Department plans to use the information gained from this demonstration project to advance broader improvements across the behavioral health system.

General—age of consent

IRRC and one commentator requested clarification on provisions relating to children receiving behavioral health services and age of consent to be consistent with other regulations and statutes. Additionally, the Department was asked to ensure that eligible individuals are not excluded from services, with one commentator stating that partial hospitalization services for persons 14 years of age or older, but under age 19 appear to have been omitted from the proposed regulations.

Response

The Mental Health Procedures Act (50 P.S. § 7201) states that any person 14 years of age or older who believes that he is in need of treatment and substantially understands the nature of voluntary inpatient treatment may submit to examination and treatment. The Minor's Consent to Medical, Dental, and Health Services Act (35 P.S. § 10101.1) specifies that a minor 14 years of age or older can consent to voluntary mental health treatment in both inpatient or outpatient settings, but does not amend the Mental Health Procedures Act or alter the minor's rights under the Act. At 14 years of age, an individual can provide voluntary consent to both inpatient and outpatient mental health treatment services.

The Department did not change the age range for adult or children's partial hospitalization services in § 1153.2

(relating to definitions). The rulemaking updates the reference to the Office of Mental Health and Substance Abuse Services (OMHSAS) to reflect the current name of the Office for consistency throughout the chapter. Adult partial hospitalization services can be provided to individuals 15 years of age or older, while children's partial hospitalization services may be provided to individuals 14 years of age or younger, which allows this service to be provided to individuals between the ages of 14 and 18. Additionally, § 5210.7(b)(2) (relating to program standards) states that adult partial hospitalization programs may treat adolescents under the age of 14 when clinically appropriate and that children and youth partial hospitalization programs may treat adolescents 14 years of age or older when clinically appropriate. 55 Pa. Code, Chapter 5210, relating to Partial Hospitalization, is not part of this rulemaking and has not been amended.

General—records

One commentator requested confirmation that all individual records including those not reimbursed by the Medical Assistance (MA) Program must comply with all recordkeeping requirements in Chapters 1153 and 5200.

Response

Chapter 1153 addresses the MA payment requirements for psychiatric outpatient clinic services provided by a licensed psychiatric outpatient clinic enrolled in the MA Program, while Chapter 5200 establishes the requirements for any psychiatric outpatient clinic to be licensed regardless of payment source. All licensed psychiatric outpatient clinics must comply with the requirements in Chapter 5200 for licensure. A psychiatric outpatient clinic enrolled in the MA Program and providing services to an MA beneficiary must also comply with Chapter 1153.

General—access for individuals needing medications

One commentator suggested that the Department add requirements for access to a psychiatrist for medication management in situations in which the individual has been discharged from inpatient care because individuals often must wait for a significant period of time to see a psychiatrist, which may impact the recovery process.

Response

The Department has included requirements for psychiatric outpatient clinics to develop admission policies that include time frames for admission for individuals referred from inpatient units, crisis intervention services or for medication management in § 5200.32(2) (relating to treatment policies and procedures). With the addition of CRNPs and PAs to provide medication management services at psychiatric outpatient clinics, the psychiatric outpatient clinics will have other qualified professionals to provide medication management services.

§ 1153.2 Definitions—adult

IRRC and one commentator requested the rationale for the definition of adult as an individual 21 years of age or older, stating that, by most standards, adults are considered to be 18 years of age or older. IRRC also asked if this is consistent with the law in the Commonwealth.

Response

The definition of adult has been removed from the rulemaking to eliminate any confusion. The definition was added because the proposed regulations identify the two Medicaid benefit packages. With Medicaid expansion, Pennsylvania provides an adult and children's benefit package. The adult benefit package is for individuals 21 years of age and older as identified in 55 Pa. Code Chapter 1101 (relating to the general provisions for

payment made by the Medicaid Program), which defines an adult as "a MA recipient 21 years of age or older." Additionally, an adult is defined in 1 Pa.C.S. § 1991 (relating to definitions) as an individual 21 years of age or over.

§ 1153.2 Definitions—family, group and individual psychotherapy

IRRC and one commentator requested clarification on the rationale for the removal of the minimum time requirements for the provision of psychotherapy services.

Response

The regulated community uses the current procedural terminology (CPT) national codes to bill for services rendered. There are different CPT codes based upon the time range of the service provided. With the elimination of the time frames in the rulemaking, any changes made to the CPT codes will not impact the billing process for the regulated community and still provide a time range for the provision of services.

§ 1153.2 Definitions—LPHA—licensed practitioner of the healing arts

One commentator suggested that licensed clinical social workers be included in the definition of LPHA.

Response

The Social Workers, Marriage and Family Therapists and Professional Counselors Act (63 P.S. §§ 1901—1922) was recently amended by the Act of June 29, 2018 (P.L. 505, No. 76) to include the ability to assess, diagnose and treat mental and emotional disorders in the practice of clinical social work, marriage and family therapy, and professional counseling. A licensed clinical social worker, a licensed marriage and family therapist, or a licensed professional counselor may now diagnose mental illness using currently accepted diagnostic classifications. The definition of LPHA is revised to include licensed clinical social workers, licensed marriage and family therapists and licensed professional counselors in recognition of the ability to diagnose mental illness as part of their scope of practice.

§ 1153.2 Definitions—mental health professional

Three commentators suggested that the requirement of mental health clinical experience be revised to clinical experience due to potential challenges in hiring qualified staff. Additionally, one commentator requested that a distinction be made between a licensed mental health professional and an unlicensed mental health professional.

Response

The Department revised the definition of "mental health professional" to require a graduate degree in a generally recognized clinical discipline in which the degree program includes a clinical practicum to ensure that individuals providing clinical services at the psychiatric outpatient clinic are qualified and to provide clarification to the regulated community.

The Department has not amended the final-form rulemaking to distinguish between a licensed and unlicensed mental health professional who may be employed by a psychiatric outpatient clinic. The rulemaking sets the minimum qualification standards for a mental health professional and does not preclude a psychiatric outpatient clinic from setting its own qualifications, such as licensure, for employment as a mental health professional.

§ 1153.2 *Definitions—mobile mental health therapy (MMHT)*

IRRC and four commentators requested that more details on the implementation of MMHT services be included in the Preamble, including the expectations for a medication visit, the criteria for MMHT services, how the service is used and any requirement for prior authorization of the service.

Response

MMHT services were added to the Medicaid State Plan and to the MA Program fee schedule in 2006 as a rehabilitation service for individuals 21 years of age or older who are unable to receive outpatient services at the clinic site. The rehabilitation option allows the psychiatric outpatient clinic to receive payment from the MA Program for medically necessary services provided in the home or community when recommended by a LPHA. The need for this service was identified by the members of the OMHSAS Advisory Committee for individuals 21 years of age or older. The service guidelines for the delivery of MMHT were issued in the Department's Medical Assistance Bulletin 08-06-18, "Mobile Mental Health Treatment" (November 30, 2006) (MA Bulletin 08-06-18). With the changes to benefit packages resulting from the implementation of Medicaid expansion, the age limits for this service were removed from the State Plan allowing MMHT to be provided to individuals under 21 years of age.

MMHT services require a written recommendation by a LPHA that identifies an emotional disturbance or physical illness that impedes or precludes the individual's ability to participate in services at the psychiatric outpatient clinic. The assessment must provide documentation of the inability to participate in services at the psychiatric outpatient clinic and may be completed in the individual's home or other approved community setting. MMHT services may be provided to individuals who would benefit from psychiatric outpatient services and do not require more intense services such as partial hospitalization or inpatient treatment.

The purpose of MMHT services is to provide therapeutic treatment to individuals who have encountered barriers to receiving or participating in services at the psychiatric outpatient clinic. MMHT services include assessment and treatment such as individual, family or group psychotherapy and medication management visits in an individual's residence or other community site.

A psychiatric outpatient clinic may provide MMHT services with an approved service description that includes all of the elements required in § 5200.51(b) (relating to provider service description), but is not required to provide MMHT. Any psychiatric outpatient clinic that has an approved service description may continue to provide MMHT services. If the psychiatric outpatient clinic will be providing additional MMHT services or serving individuals under 21 years of age, an updated service description shall be submitted to the Department for approval.

The criteria for MMHT services are identified in § 1153.52(d) (relating to payment conditions for various services) of the rulemaking and are similar to the criteria that were listed in the Medical Assistance Provider Handbook for Psychiatric and Partial Hospitalization Services, Section VII, Other Services, under Subsection C, Service Initiation. The requirements for MMHT services are replacing the conditions for providing psychiatric clinic services in the home and allow for MMHT services to be provided to individuals diagnosed with a mental illness or emotional disturbance who would benefit from

services provided by a psychiatric outpatient clinic but, due to a mental or physical illness that impedes or precludes their ability to participate in the services at the clinic, as identified in § 1153.52(d), would be unable to access treatment at the clinic site.

MMHT services are provided at the individual's home or other community site by psychiatric outpatient clinic staff as identified in the approved service description. A medication visit provided by a psychiatrist, physician, advanced practice professional or CRNP may include the administration of medication and the evaluation and monitoring of the use of medication. Individual or family psychotherapy may be provided by a mental health professional or a psychologist. Group therapy services may be provided in approved community sites but cannot be provided in an individual's home.

MMHT services are available in both the fee-for-service delivery system and the HealthChoices Behavioral Health Program. In the HealthChoices Behavioral Health Program, MMHT services may require prior authorization by the Behavioral Health Managed Care Organization.

The Department will provide technical assistance to any psychiatric outpatient clinic interested in expanding or providing MMHT services.

§ 1153.2 *Definitions—psychiatric evaluation*

IRRC and two commentators recommended that the final-form rulemaking specify the process for obtaining "prior written approval" for a psychiatric evaluation completed by the use of audio-video transmission that would not result in creating a barrier to accessing services. Another commentator asked if any privacy or security standards would apply to evaluations done through audio-video transmission. Additionally, two commentators recommended that advanced practice professionals be allowed to complete a psychiatric evaluation.

Response

The Department has revised the definition of "psychiatric evaluation" in the final-form rulemaking to remove the language related to "prior written approval" to clarify that prior authorization is not required for a psychiatric evaluation. A psychiatric evaluation can be provided using interactive audio and video communication technology that conforms to industry-wide compressed audio-video communication standards for real-time, two-way interactive audio-video transmission. The technology must comply with State and Federal law for privacy and security.

By definition, a psychiatric evaluation is performed by a psychiatrist. To practice psychiatry, the psychiatrist has completed all the requirements to become a medical doctor, including 4 years of medical school and an additional 3 to 4 years of residency training specifically in psychiatry. Many psychiatrists are also Board Certified by national certification entities. The Department will continue to require that a psychiatric evaluation be performed only by a psychiatrist, recognizing the years of training and experience specific to this medical specialty. This does not preclude advanced practice professionals from completing an assessment, developing a treatment plan or performing a medication evaluation as part of their scope of practice in a psychiatric outpatient clinic.

§ 1153.2 *Definitions—supervision by a psychiatrist*

One commentator objected to this definition, stating that a psychiatrist will not be able to physically see, supervise and prescribe care for every individual that is receiving services at the outpatient psychiatric clinic, and that the supervision requirement implies that a psychiatrist supervises and directs every clinical decision made

by other professionals who have a therapeutic relationship with the individual receiving services. Additionally, the commentator states that it is unsafe to delay decisions until a psychiatrist directs care through supervision. The commentator stated that a nurse practitioner who collaborates with a psychiatrist can make decisions for care independently under the nurse practitioner's scope of practice. Nurse practitioners do not require supervision but work under a collaborative agreement with a physician.

Response

The Department removed the definition of "supervision by a psychiatrist" and replaced it with a definition for "under the direction of a psychiatrist." 42 CFR 440.90 defines clinic services as "preventive, diagnostic, therapeutic, rehabilitative or palliative services. . .furnished. . .under the direction of a physician." Psychiatric outpatient clinic services must comply with the Federal requirements when receiving Medicaid payment for services. The psychiatrist must provide or oversee and direct compensable medical, psychiatric and psychological services provided to individuals by the psychiatric outpatient clinic personnel. The psychiatrist has the overall responsibility for the services that are provided by the clinic staff.

The psychiatrist does not need to make every clinical decision for care but is responsible to assure that services are medically appropriate and to provide direction for the psychiatric outpatient clinic services through supervision and consultation to the professional staff employed by the psychiatric outpatient clinic.

§ 1153.14(1) *Non-covered services—services conducted over the telephone*

One commentator requested clarification that tele-psychiatry cannot be provided over the telephone. Two commentators suggested that a covered service be allowed to be provided over the telephone to support individuals in crisis and reduce hospitalization.

Response

Tele-behavioral health services must be provided through the use of two-way real-time interactive audio and video transmission using technology that conforms to industry-wide compressed audio-video communication standards and complies with State and Federal law. This service cannot be provided over a telephone.

Further, the MH/ID Act of 1966 (50 P.S. § 4301(4)) requires each county to provide emergency services at all times. Counties provide an array of licensed crisis intervention services, including telephone crisis intervention services that are always available as a resource for individuals in crisis.

§ 1153.14(5) *Non-covered services—treatment institution*

One commentator requested clarification that a community residential rehabilitation service (CRRS) or nursing home would not be considered a "treatment institution" and that psychiatric outpatient clinic and MMHT services may be provided to individuals who reside in these facilities.

Response

Treatment institutions are defined in § 1153.2 as facilities licensed by the Department that provide full-time psychiatric treatment for resident individuals. By definition, individuals residing in a treatment institution would be receiving full-time psychiatric treatment at the facility and would not be eligible for or need outpatient treatment services. A CRRS and a nursing home would not be included in the definition of a treatment institution because these facilities do not provide full-time psychiat-

ric treatment to the individuals who are residents. Individuals that reside in either a CRRS or nursing home who would benefit from services provided by a psychiatric outpatient clinic would be eligible to receive these services.

§ 1153.14(9)(20) *Non-covered services—services on the same day*

Four commentators recommended the removal of the MA payment limitation to allow an individual to receive psychiatric outpatient clinic services, MMHT and psychiatric partial hospitalization services on the same day, stating that the ability to receive individual psychotherapy and medication management on the same day provides comprehensive care. Additionally, it was recommended that MMHT and other home and community-based services be provided on the same day. IRRRC requested the Department provide a rationale for these provisions.

Response

This limitation does not restrict the individual from receiving multiple services, such as psychotherapy or medication monitoring, on the same day from the psychiatric outpatient clinic, partial hospitalization program or MMHT. The limitation addresses having an individual receive services at a psychiatric outpatient clinic and a partial hospitalization program or through MMHT on the same day. An individual can receive psychotherapy, medication management or a psychiatric evaluation at a psychiatric outpatient clinic, partial hospitalization program or MMHT services on the same day if the services are medically necessary.

A psychiatric partial hospitalization program provides a minimum of 3 hours of treatment in a 24-hour period on 1 or more days each week. MMHT services are provided to individuals with a mental illness or emotional disturbance who have a physical or mental illness that precludes or impedes them from receiving services at the psychiatric outpatient clinic. An individual who is unable to receive services at the clinic would also not be able to attend treatment at a partial hospitalization program.

An individual has a primary clinician responsible for coordinating services, developing a treatment plan and monitoring access to needed treatment at the clinic, partial program or through MMHT services. If an individual is receiving services from multiple facilities, there is the potential for medication to be prescribed by more than one physician or advanced practice professional, which may result in a medication interaction, the implementation of different treatment plans and interventions, or conflicting treatment approaches that will not benefit the individual. The Department supports these limitations as protecting the health and safety of the individual while ensuring access to the appropriate level of care and services based upon medical necessity.

However, the Department recognizes that there may be some situations where a medically necessary specialized clinical service, such as trauma treatment or sex offender treatment, is not available at the facility providing primary treatment to the individual. To address a situation where the provision of a medically necessary specialized service by a different provider is clinically appropriate, the Department has amended the final-form rulemaking to provide for an exception to the noncoverage of these services.

§ 1153.4(18) *Non-covered services—MMHT provided in a nursing home*

One commentator identified the inability to provide MMHT services to individuals residing in a nursing home

as a potential barrier to service delivery with the implementation of the Community HealthChoices program.

Response

The Department amended the final-form rulemaking to allow the provision of MMHT services to individuals residing in nursing homes.

§ 1153.14(21) *Non-covered services—transportation*

Five commentators recommended amending this section to include the need for specialized transportation as a reason for receiving MMHT services. IRRC requested clarification on the intent of this limitation.

Response

The Department removed the provision that identified MMHT services as a substitute for transportation as a noncovered service. MMHT services are available based on the clinical need for the service. The availability of transportation is not a clinical factor.

§ 1153.52(a)(7)(ii) *Payment conditions for various services—treatment plans*

Three commentators recommended that treatment plans be eliminated or replaced with a rating scale. One commentator stated that other states do not require treatment planning and another stated there is no evidence to support that adherence to treatment plans improves outcomes.

Response

The Department reviewed regulations for psychiatric outpatient services in seven other states that all require treatment planning. Treatment planning is an ongoing process of assessing an individual's mental health status and treatment needs. The treatment planning process is completed with the individual receiving services by establishing treatment goals and determining what services may be provided by the psychiatric outpatient clinic to assist the individual in accomplishing these goals. Additionally, § 5200.31(c)(3) (relating to Treatment Standards) requires that the treatment plan be developed with the active involvement of the individual receiving services to incorporate individual preferences in treatment. Person-centered treatment planning is a collaborative process with the individual participating in the development of the treatment goals and objectives to address individual needs. This process engages the individual in treatment, furthers the therapeutic relationship and promotes shared decision making to improve treatment outcomes. The treatment plan is developed to guide the treatment process and ensure that appropriate clinical services are provided. The treatment planning process is also a means for determining when the individual's goals have been met to the extent possible in the context of the psychiatric outpatient clinic program and to ensure that appropriate discharge planning occurs.

§ 1153.52(b)(1)(iii) *Payment conditions for various services—psychiatric outpatient partial hospitalization*

One commentator stated that the removal of time frames in the definition of psychiatric partial hospitalization services may allow a physician to prescribe partial hospitalization services for only 2 hours daily. Another commentator stated that the terms "supervised, protected setting" may be misconstrued as meaning an inpatient treatment setting.

Response

The Department has included the time frame of 3 hours but less than 24 hours on any 1 day in the definition of psychiatric partial hospitalization in the final-form rule-

making. The terms "supervised, protected" were removed in the final-form rulemaking, and this subsection was revised for clarity.

§ 1153.52(b)(2)(v) *Payment conditions for various services—psychiatric outpatient partial hospitalization*

IRRC and one commentator recommended adding PAs and CRNPs to this subsection to be consistent with the amended definition of "psychiatric clinic medication visit."

Response

The Department has amended the final-form rulemaking to include CRNPs and PAs in § 1153.52(b)(2)(v).

§ 1153.52(c)(1)(4) *Payment conditions for various services—psychiatric outpatient clinic*

IRRC and one commentator requested clarification that advanced practice professionals can provide a psychiatric clinic medication visit and a psychiatric clinic clozapine monitoring and evaluation visit. Additionally, IRRC recommended that if the intent is to allow an advanced practice professional to provide these services, the term should be added to this subsection and defined in Chapter 1153.

Response

The Department has amended the final-form rulemaking to add the definition of advanced practice professionals to § 1153.2 (relating to definitions) for consistency. The definitions of a psychiatric clinic medication visit and a psychiatric clinic clozapine monitoring and evaluation visit include CRNPs and PAs, who are considered advanced practice professionals in the rulemaking, as professionals who may provide this service; therefore, no amendments were made to this section of the final-form rulemaking.

§ 1153.52(d) *Payment conditions for various services—MMHT*

One commentator stated that MMHT service criteria included in § 1153.52(d) are limiting and restrict the population to whom these services can be provided. The commentator recommends that this section be amended to include the criteria in the Medical Assistance Provider Handbook for Psychiatric and Partial Hospitalization Services, Section VII, Other Services, Subsection C, Service Initiation.

Response

The criteria for MMHT services in § 1153.52(d) of the final-form rulemaking are similar to subsection C in the Medical Assistance Provider Handbook addressing service initiation. MMHT services may be provided when recommended by a physician or other practitioner of the healing arts acting within the practitioner's scope of practice to an individual who meets the medical necessity for psychiatric outpatient clinic services and has a mental or physical illness that impedes or precludes the individual's ability to participate in psychiatric outpatient services at the clinic site. The one criteria in the Medical Assistance Provider Handbook related to one or more significant psychosocial stressors has been eliminated for consistency with the changes to the previous multiaxial diagnostic approach for the diagnosis of mental illness and assessment of level of functionality used in the *Diagnostic and Statistical Manual of Mental Disorders*, Fourth Edition-Revised (DSM-IV-TR) which preceded the current DSM-5. The DSM-5 eliminated this multiaxial format by combining the first three axes into one diagnostic list ordered by relevancy, to include all mental illness diagnoses, including personality disorders and intellectual disability, as well as medical diagnoses. The fourth axis,

which consisted of psychosocial and environmental factors, is now represented by an expanded set of V codes that are used to recognize conditions other than a disease or injury that may contribute to an individual needing treatment services. The written recommendation and the assessment will provide the necessary information that a mental or physical illness precludes or impedes the individual from receiving services at the clinic. The written recommendation or assessment may include the use of V codes that support the need for MMHT services. Therefore, the Department did not include psychosocial stressors as a separate and distinct criteria as it is incorporated into V codes that may be included as part of the written recommendation and assessment.

The Department also revised this section to remove the reference to “the disabling effects of” of mental or physical illness.

§ 5200.3 Definitions—advanced practice professional

Three commentators stated that a CRNP provides services in collaboration with a physician licensed to practice in the Commonwealth, in accordance with the Professional Nursing Law (63 P.S. §§ 211—225.5) and its regulations, not under the supervision of a physician, and requested revisions to the regulation for clarity. One commentator suggested that: “clinic services furnished by physicians, certified behavioral advanced practice registered nurses or PA, without regard to...” would be consistent with federal law.

Three commentators also suggested that the requirements for advanced practice professionals be added to both Chapters 1153 and 5200 (relating to Outpatient Psychiatric Services and Psychiatric Outpatient Clinics) for clarity and consistency.

Additionally, two commentators recommended that the definition allow CRNPs to have one year of experience working in a behavioral health field for consistency with the qualifications for a PA.

Response

The definition of “advanced practice professional” is consistent with the OPOA. It includes both CRNPs and PAs. A PA is required to have a written agreement with a supervising physician under section 422.13 of the Medical Practice Act of 1985 (63 P.S. § 422.13) and its regulations (49 Pa. Code § 18.142). A CRNP is required to have a collaborative agreement with a physician at the psychiatric outpatient clinic and provide services under the Professional Nursing Law (63 P.S. §§ 211—225.5) and its regulations (49 Pa. Code § 21.282a).

Professionals employed by the psychiatric outpatient clinic provide services within their scope of practice. The federal regulation at 42 CFR 440.90, specifies that clinic services are under the direction of physician or dentist. Psychiatric outpatient clinic services must be provided in a manner that complies with federal rules when the clinic is receiving Medicaid payment for services, including the requirement that all services provided at the psychiatric outpatient clinic are under the direction of a physician.

The Department has amended the rulemaking to include the definition of advanced practice professionals in both chapters for consistency and clarity. Additionally, the Department has amended the definition of advanced practice professionals by removing the reference to supervision by a psychiatrist to address any confusion that a CRNP must receive supervision. The final-form rulemaking requires PAs and CRNPs to have a mental health certification or obtain certification within 2 years of hire or within 2 years of July 30, 2020. This will allow PAs and CRNPs currently employed by a psychiatric outpa-

tient clinic to obtain the certification if they do not already have the certification.

§ 5200.3 Definitions—assessment

IRRC and one commentator recommended that the term “assessment” be included in Chapter 1153 definitions for clarity and for consistency with the definition included in Chapter 5200 (relating to Psychiatric Outpatient Clinics). Additionally, a commentator stated that the terms “assessment,” “evaluation” and “diagnostic evaluation” are used interchangeably throughout the chapter. IRRC requested either consistent use of the terminology or definitions for each term.

Response

The Department agrees and has amended the rulemaking to include the definition of “assessment” in Chapter 1153 and 5200. Additionally, the Department has eliminated the terms “evaluation” and “diagnostic evaluation” and used the term “assessment” consistently throughout the chapters.

§ 5200.3 Definitions—LPHA—licensed practitioner of the healing arts

IRRC and one commentator asked if the term LPHA should be used instead of “licensed practitioner” as LPHA is defined but not used in the text of the chapter while the term “licensed practitioner” is used in §§ 5200.42(a)(1) and (b)(1) (relating to medications) but is not defined.

Response

The Department has amended the rulemaking to remove the term “licensed practitioner” in § 5200.42(a)(1) and (b)(1) and added psychiatrists, physicians, CRNPs and PAs for consistency in the chapter. Additionally, § 5200.41(a)(12) (relating to records) has been amended to clarify that a written recommendation from a LPHA for MMHT services shall be kept in the individual record.

§ 5200.3 Definitions—telepsychiatry

Two commentators requested clarification on the requirements for the utilization of tele-psychiatry and the approval process for this service. One commentator asked about security standards for the service. Additionally, IRRC requested that the Department consider expanding the use of tele-psychiatry to provide greater access to services provided by psychiatric outpatient clinics in the final-form rulemaking.

Response

The Department has revised the definition of telepsychiatry in the final-form rulemaking, which is now called “tele-behavioral health.” “Tele-behavioral health” is defined as “the use of interactive audio and video communication to provide clinical services at a distance using technology that conforms to industry-wide standards and is in compliance with State and Federal privacy and security laws. Tele-behavioral health does not include telephone services, electronic mail messages or facsimile transmission between a psychiatrist or an advanced practice professional and the individual receiving services.” The Department has added a definition of interactive audio and visual to clarify that the service must be delivered by real-time two-way or multiple-way communication with the individual and the professional.

§ 5200.21(c)(1)—Qualifications and duties of the director/clinical supervisor—delegation of supervisory responsibilities

One commentator recommended that the clinical supervisor have the ability to delegate supervisory responsibilities when not available at the psychiatric outpatient clinic.

Response

The final-form rulemaking does not prohibit a clinical supervisor from delegating supervisory responsibility when not available. As part of the clinical supervisor's responsibility under § 5200.21(c)(2) (relating to qualifications and duties of the director/clinical supervisor), an operations policy and procedure should be developed to address supervisory responsibilities when the identified clinical supervisor is unavailable.

§ 5200.22 Staffing pattern—clarification of terms

IRRC and several commentators asked for clarification on what is meant by psychiatric time, whether CRNPs and PAs may provide psychiatric time, the qualifications for treatment staff and the standards for having a specialization in behavioral health. IRRC and one commentator also requested clarification on the qualifications for treatment staff that are included in determining the psychiatric time ratio.

Finally, IRRC also requested that the Department include details in the final-form regulation to address the requirement to obtain "prior written approval from the Department" for the use of tele-psychiatry and how this would be implemented by the Department.

Response

The Department has amended the rulemaking to clarify the three issues related to staffing patterns identified by IRRC and commentators. Fifty percent of the treatment staff providing psychotherapy services must be mental health professionals. The qualifications for a mental health professional are included in the definition in § 5200.2. The psychiatric time requirements have been amended to clarify that a psychiatric outpatient clinic is required to have 2 hours of psychiatric time per week for each FTE mental health professional and mental health worker providing clinical services. Additionally, this section states that graduate and undergraduate students in accredited training programs are not included in the staffing patterns. Psychiatric residents with unrestricted licenses to practice medicine are considered mental health professionals as part of the staffing pattern.

The psychiatric time is considered the actual time that the psychiatrist is on-site at the psychiatric clinic providing services. Fifty percent of the psychiatric time must be provided by the psychiatrist at the clinic while the rest may be provided by an advanced practice professional, a psychiatrist off-site through tele-behavioral health or a combination of the use of advanced practice professionals and tele-behavioral health.

Additionally, the Department has removed the term "specializing in behavioral health" from the final-form rulemaking. The definition of "advanced practice professionals" was revised to include the requirement for mental health certifications.

The Department has amended the final-form rulemaking to remove any reference to requiring "prior written approval" to alleviate any confusion that prior written approval was required for a psychiatric evaluation, rather than for the use of tele-behavioral health as a mode of service delivery.

§ 5200.23 Psychiatric supervision

IRRC and six commentators stated that under the Professional Nursing Law and its regulations, CRNPs work in collaboration with physicians and psychiatrists, not under their supervision. Additionally, one commentator stated that the requirement of psychiatric supervision was problematic in integrated care settings where psychiatrists do not typically manage treatment.

Response

The supervisory responsibilities of the psychiatrist listed in § 5200.23 (relating to psychiatric supervision) have been revised in the final-form rulemaking. Licensed professionals would provide services within their scope of practice as employees of the psychiatric outpatient clinic, consistent with the clinic policies and procedures, regulatory requirements and their job descriptions. A CRNP would have a collaborative agreement with the psychiatrist as required by the Professional Nursing Law (63 P.S. §§ 211—225.5) and its regulations relating to CRNP practice (49 Pa. Code § 21.282a).

Any professional employed by a psychiatric outpatient clinic provides services under the supervision and direction of a psychiatrist who has the overall responsibility for all clinical services provided by the psychiatric outpatient clinic staff within the staff members' scope of practice. CRNPs employed by the psychiatric outpatient clinic would have a collaborative agreement with the psychiatrist and provide services as allowed under their scope of practice. The Department has clarified the requirements for psychiatric supervision in the final-form rulemaking to include establishing appropriate standards for treatment and prescribing practices, participation in clinical staff meetings and consultation to staff.

This rulemaking applies only to licensed psychiatric outpatient clinics where clinical services are provided under the direction of a psychiatrist and not an integrated care model that may focus on physical health services rather than behavioral health services.

§ 5200.31(a)(2) Treatment planning

Seven commentators expressed concern about limited access to psychiatrists in the state and recommended that the Department allow additional licensed professionals under their scope of practice to sign treatment plans. Permitting other licensed professionals to review and sign treatment plans would allow psychiatric outpatient clinics to utilize psychiatric services to the fullest extent in the clinics. Additionally, IRRC requested that the Department ensure that the final-form regulation represents the best practices related to scope of practice for licensed practitioners.

Three commentators recommended that the Department require that the consenting family member for individuals under 14 years of age receiving services sign the treatment plans.

Response

The Department has reviewed the public comments, the scope of practice for licensed professionals and solicited input from the workgroup members as part of the process of drafting the final-form rulemaking to address this concern. The Department has amended § 5200.31 (relating to treatment planning) to address recommendations from the regulated community while ensuring that appropriate oversight of treatment services in psychiatric outpatient clinics occurs to protect the health and safety of individuals receiving these services.

The amendments to the final-form rulemaking will allow a psychiatrist or an advanced practice professional to review, sign and date the initial treatment plan. Treatment plans developed for individuals receiving services under an involuntary outpatient commitment will still require psychiatric review and signature. For individuals receiving medication management services only, the psychiatrist, physician, CRNP or PA responsible for prescribing and monitoring medication shall review, sign and date the initial treatment plan.

Treatment plans shall be reviewed and updated every 180 days or as otherwise required by law with the individual receiving services and the professional providing primary treatment services. This may be the mental health professional, mental health worker under the supervision of the mental health professional, CRNP or PA based upon the services being provided to the individual by the psychiatric outpatient clinic. The treatment plan shall be reviewed on an annual basis by a psychiatrist or an advanced practice professional throughout the course of treatment from the psychiatric outpatient clinic. The review shall be documented in the individual record.

Since the majority of public comments supported the time frame changes for the initial treatment plan to 30 days and the treatment plan update to 180 days or as otherwise required by law, no changes have been made in the final-form rulemaking. The initial treatment plan can now be reviewed and signed by the professionals who can provide the required psychiatric time at the psychiatric outpatient clinic. The updated treatment plan can be reviewed and signed by the primary professional within their scope of practice who is providing clinical services to the individual.

Both the proposed and final-form rulemaking include the requirement that the treatment plan for children and adolescents be developed and implemented with the consent of parents or guardians and include their participation in treatment. Children under 14 years of age require written consent from the parent to receive treatment from the psychiatric outpatient clinic, which would include signing the treatment plans.

§ 5200.51 *Provider service description*

One commentator requested clarification that existing service descriptions for MMHT will remain valid under the final-form rulemaking and whether an updated service description must be submitted for approval. Additionally, the commentator expressed concern that requiring a written recommendation from a LPHA for MMHT services was a barrier to the service.

Response

The existing service description for MMHT services will remain valid if there are no changes to the service. Section 5200.51(a) requires a psychiatric outpatient clinic to submit an updated service description for approval by the Department when there are changes to MMHT services, such as providing services to individuals under 21 years of age.

MA Bulletin 08-06-18, Mobile Mental Health Treatment, states that MMHT services may be provided when prescribed by a physician or other practitioner of the healing arts. This requirement has not changed in the rulemaking. The individual may receive a written recommendation for MMHT services from a LPHA prior to the assessment. The assessment is a service that can be provided in the individual's home.

In addition to the changes discussed above, the Department made changes in the following sections of the final-form rulemaking, including correcting typographical errors, and revising language to improve clarity and for consistency with the changes previously discussed.

§ 1153.2 *Definitions—advanced practice professional*

The definition of “advanced practice professional” is added to the final-form rulemaking to comply with the OPOA, which requires the Department to promulgate regulations as necessary to carry out the provisions of the act. Advanced practice professionals are defined as CRNPs who hold a Pennsylvania license and a mental

health certification or PAs who hold a Pennsylvania license and a mental health certification or obtain a mental health certification within two years of being hired by a psychiatric outpatient clinic or by July 30, 2020, whichever is later.

§ 1153.2 *Definitions—interactive audio and video*

The term “interactive audio and video” is added to the final-form regulation for consistency with the OPOA.

§ 1153.2 *Definitions—LPHA—licensed practitioner of the healing arts*

The definition of “Licensed Practitioner of the Healing Arts” is revised to include licensed clinical social workers, licensed professional counselors and licensed marriage and family therapists for consistency with recent amendments to the Social Workers, Marriage and Family Therapists and Professional Counselors Act (P.L. 220, No. 39). The amendment has expanded the scope of practice of clinical social work, marriage and family therapy and professional counseling to include the ability to diagnose mental and emotional disorders using currently accepted diagnostic classifications.

§ 1153.2 *Definitions—mental health professional*

The definition of “mental health professional” is revised to clarify that a graduate degree program must include a clinical practicum and conform with the changes previously discussed.

§ 1153.2. *Definitions—mental illness or emotional disturbance*

The last sentence in the definition of “mental illness or emotional disturbance” was removed as unnecessary given the reference to the diagnostic criteria in the *Diagnostic and Statistical Manual of Mental Disorders* or the *International Classification of Diseases*.

§ 1153.2 *Definitions—outpatient services*

In response to the recommendation by workgroup members, the Department is revising the definition of “outpatient services” in the final-form rulemaking for consistency with other changes that delineate the difference between services and the individual who is receiving the psychiatric outpatient clinic service.

§ 1153.2 *Definitions—psychiatric evaluation*

The definition of “psychiatric evaluation” is revised to clarify that the evaluation may be provided through the use of interactive audio and video communication that conforms with industry-wide technology standards. The definition also removes any reference to requiring prior written approval from the Department to clarify the regulation.

§ 1153.2 *Definitions—psychiatric partial hospitalization*

The definition of “psychiatric partial hospitalization” is revised for consistency with the language used in Chapter 5210 (relating to partial hospitalization).

§ 1153.2 *Definitions—supervision by a psychiatrist*

The definition of “supervision by a psychiatrist” is deleted and replaced with the term “under the direction of a psychiatrist” to clarify that a psychiatrist is responsible for the oversight of all services provided to individuals by psychiatric outpatient clinic personnel to align with the Federal requirements for a clinic in 42 CFR 440.90.

§ 1153.11 *Types of services covered*

The Department revised this section to include that services must be provided by facilities that are enrolled MA providers. Additionally, the final-form rulemaking is revised to change “partial hospitalization facilities” to

“partial hospitalization outpatient facilities” for consistent use throughout the chapter. The Department also revised this regulation to clarify that the MA Program covers psychiatric outpatient clinic, partial hospitalization outpatient facility, and MMHT services provided to individuals with a mental illness or emotional disturbance and co-occurring diagnosis of an intellectual disability.

§ 1153.12 *Outpatient services*

This section is revised to delete the language “when ordered by a psychiatrist” and add “under the direction of a psychiatrist” for consistency with the changes in the definition section and to clarify that other professionals may order services within their scope of practice.

§ 1153.14(9)(20) *Noncovered services—services on the same day*

The final-form rulemaking is revised to allow for the payment of the provision of medically necessary clinical services that are not offered by the psychiatric outpatient clinic, psychiatric partial hospitalization outpatient service or MMHT service on the same day. This revision conforms with changes previously discussed in the comment section.

§ 1153.14(10) *Noncovered services—diagnosis by a psychiatrist*

The final-form rulemaking is revised to clarify that MA payment will not be made for psychiatric outpatient clinic, partial hospitalization outpatient facility, and MMHT services to individuals who do not have a mental illness or emotional disturbance.

§ 1153.14(15) *Noncovered services—review and approval of initial treatment plan*

The initial assessment and treatment plan may be reviewed and approved by a psychiatrist or an advanced practice professional.

§ 1153.41(1)(10) *Participation requirements—licensure and prescribing*

The Department deleted the references to “fully” licensed as a psychiatric outpatient clinic or partial hospitalization outpatient facility to clarify that a psychiatric outpatient clinic or partial hospitalization outpatient facility is eligible to participate in the MA Program if it holds a provisional license. Additionally, the final-form rulemaking clarifies the professionals that may prescribe medications within their scope of practice at the psychiatric outpatient clinic include a psychiatrist, physician, CRNP or PA and deletes the term “licensed practitioner.”

§ 1153.42(b) *Ongoing responsibilities of providers—recordkeeping requirements*

The final-form rulemaking clarifies what items must be part of the individual record and the recordkeeping responsibilities of providers serving MA beneficiaries.

§ 1153.51—*General payment policy*

The Department supports the use of tele-behavioral health and revised § 1153.51 to specify that it will publish procedures for the use of tele-behavioral health to provide compensable psychiatric outpatient clinic or psychiatric partial hospitalization services.

§ 1153.52(a)(2) *Payment conditions for various services—psychiatric evaluation*

The final-form rulemaking deletes all language referencing “prior written approval for a psychiatric evaluation” for clarity in the interpretation of the rulemaking. A psychiatric evaluation does not require prior written approval by the Department.

§ 1153.52(a)(7)(iv)(8)(i)(ii) *Payment conditions for various services—treatment plans*

The final-form rulemaking is revised to allow an initial treatment plan to be reviewed and approved by a psychiatrist or an advanced practice professional to allow the additional professionals who can now provide part of the psychiatric time to also sign the initial treatment plan. If the individual is receiving medication management services only at the psychiatric outpatient clinic, the professional responsible for the prescribing and monitoring of the use of the medications may review and sign the initial and updated treatment plans. Additionally, the individual receiving services is requested to sign the initial treatment plan and any updated plans. If the individual does not sign the plan, the request shall be documented in the record. This requirement ensures that treatment plans are developed in collaboration with the individual receiving services and are individualized to address the goals of each individual receiving services. Treatment plan updates are reviewed and updated every 180 days by the professional providing primary services to the individual.

§ 1153.52(b)(iii) *Payment conditions for various services—psychiatric outpatient partial hospitalization*

The final-form rulemaking revises the terminology related to psychiatric partial hospitalization outpatient services criteria to include time frames for the service consistent with the definition of partial hospitalization.

§ 1153.52(d)(2) *Payment conditions for various services—MMHT*

Finally, the final-form rulemaking is revised to clarify that there must be documentation of a written recommendation from a LPHA for MMHT services in the individual record for the service to be MA compensable.

§ 5200.3 *Definitions—advanced practice professional*

The definition of “advanced practice professional” is added to the final-form rulemaking to comply with the OPOA, which requires the Department to promulgate regulations as necessary. Advanced practice professionals are defined as CRNPs who hold a Pennsylvania license and a mental health certification or PAs who hold a Pennsylvania license and a mental health certification or obtain a mental health certification within two years of being hired by a psychiatric outpatient clinic or by July 30, 2020, whichever is later.

§ 5200.3 *Definitions—interactive audio and video*

Additionally, the term “interactive audio and video” is added to the final-form regulation for consistency with the OPOA.

§ 5200.3 *Definitions—LPHA—licensed practitioner of the healing arts*

The definition of “Licensed Practitioner of the Healing Arts” is revised to include licensed clinical social workers, licensed professional counselors and licensed marriage and family therapists for consistency with recent amendments to the Social Workers, Marriage and Family Therapists and Professional Counselors Act (63 P.S. §§ 1901—1922). The amendment has expanded the scope of practice of clinical social work, marriage and family therapy and professional counseling to include the ability to diagnose mental and emotional disorders using currently accepted diagnostic classifications.

§ 5200.3 *Definitions—mental health professional*

The definition of “mental health professional” is revised to clarify that a graduate degree program must include a clinical practicum and conform with the changes previously discussed.

§ 5200.3 Definitions—*mental illness or emotional disturbance*

The last sentence in the definition of “mental illness or emotional disturbance” was removed as unnecessary given the reference to the diagnostic criteria in the *Diagnostic and Statistical Manual of Mental Disorders* or the *International Classification of Diseases*.

§ 5200.3 Definitions—*tele-behavioral health*

The term “tele-behavioral health” replaces “tele-psychiatry” in the final-form rulemaking. Tele-behavioral health allows the use of interactive audio and video communication technology to provide clinical services at a distance, consistent with the OPOA. It does not include telephone conversations, electronic mail message or facsimile transmission.

§ 5200.11(d) Organization and structure—*organizational change*

The final-form rulemaking is revised to include a ten day time frame for the psychiatric outpatient clinic to notify the Department of a major change to the organizational structure or services. Previously, no time frame for notification was included in the rulemaking.

§ 5200.22(a) Staffing pattern—*psychiatric time*

The final-form rulemaking is revised for consistency with the OPOA, which requires 50% of the psychiatric time to be provided by the psychiatrist at the psychiatric outpatient clinic while the other 50% of the time may be provided by an advanced practice professional or by a psychiatrist off-site by the use of tele-behavioral health or a combination of tele-behavioral health and the use of advanced practice professionals. Additionally, this section is revised to clarify that the psychiatric time ratio applies to mental health professionals and mental health workers providing clinical services.

§ 5200.22(b) Staffing pattern—*supervision*

The rulemaking clarifies that all clinical staff employed by a psychiatric outpatient clinic are supervised by the psychiatrist that has the overall responsibility for services provided by the clinic.

§ 5200.23(a)(b)(c)(d) *Psychiatric supervision*

The final-form rulemaking is revised to clarify the psychiatrist’s supervisory responsibilities for services provided by the psychiatric outpatient clinic staff. The psychiatrist establishes treatment standards and prescribing practices, participates in clinical staff meetings, contributes to the quality management process and provides consultation to clinical staff. The psychiatrist is responsible for the overall direction of services provided by staff.

§ 5200.31(b)(2)(3)(d)(2)(3)(4) *Treatment planning—review and signature*

The final-form rulemaking is revised to allow either a psychiatrist or an advanced practice professional to review and sign an initial treatment plan. This revision recognizes the professionals that may provide psychiatric time at the psychiatric outpatient clinic under the OPOA can also review and sign an initial treatment plan. Previously, only a psychiatrist could review and sign the plan. For individuals that receive medication management services only, the professional responsible for prescribing and monitoring the use of medication may review and sign the initial treatment plan. Additionally, treatment plans are reviewed, updated and signed by the professional providing primary services at the psychiatric outpatient clinic. Finally, if the individual receiving services does not sign the treatment plan as requested, the

mental health professional or mental health worker shall document this request in the record. The final-form rulemaking also re-organizes this section for clarity and readability of the treatment planning requirements.

§ 5200.32(2)(4)(5)(6) *Treatment policies and procedures—admission, discharge, complaint and rights*

The final-form rulemaking is revised to ensure policies and procedures are in place that protect the health and safety of individuals receiving services from the psychiatric outpatient clinic. Psychiatric outpatient clinics must have policies and procedures for assessments, time frames for referrals from crisis services, inpatient units and medication management services to ensure that individuals in need of services are seen in a timely manner. Additionally, a discharge policy must be developed for individuals who have completed treatment with the psychiatric outpatient clinic. The psychiatric outpatient clinic shall develop complaint policies and procedures to ensure that an individual receiving services has the ability to file a complaint regarding services. Finally, the psychiatric outpatient clinic must develop and provide a statement of rights in accordance with §§ 5100.51—5100.56 relating to patient rights.

§ 5200.33(a)(b) *Discharge*

The final-form rulemaking adds requirements for the development of a discharge summary for each individual receiving services. This document includes a summary of the services provided and outcomes, reason for discharge, and referral information for other services if needed. The psychiatric outpatient clinic must provide contact information for the local crisis intervention service and any referral contact information to the individual to ensure continuity of care upon discharge.

§ 5200.41(a)(12)(b)(2) *Records—documentation and review*

With the inclusion of MMHT services in the final-form rulemaking, the individual record must now include a written recommendation from a LHPA for this service. Additionally, records must be reviewed twice a year for quality by the director, clinical supervisor or psychiatrist.

§ 5200.42(a)(1)(b)(1) *Medications—prescribing and dispensing*

The final-form rulemaking deletes the term “licensed practitioner” which was not defined. The revision clarifies that a psychiatrist, physician, CRNP or PA may prescribe medications within their scope of practice at psychiatric outpatient clinics. Additionally, the final-form rulemaking is revised to clarify that medications can only be dispensed on an order from a licensed psychiatrist, physician, CRNP or PA.

§ 5200.44(1)(2)(3)(4) *Quality assurance program—quality assurance plan*

The final-form rulemaking is revised to clarify that the quality assurance process includes the review of timeliness and appropriateness of the services, feedback from individuals receiving services, documentation of findings of the annual review and utilization of the findings to improve services. The quality improvement process is similar to other regulatory chapters for consistency to alleviate the need for psychiatric outpatient clinics that may have other licenses to develop other quality improvement plans.

§ 5200.53 *Discharge—MMHT*

The final-form rulemaking deletes this section because discharge planning has been added under § 5200.33 as a requirement for all psychiatric outpatient clinics. Since MMHT services can only be provided by a licensed

psychiatric outpatient clinic with an approved service description, there was no need for a discharge section specific to MMHT.

Regulatory Review Act

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on July 28, 2017, the Department submitted a copy of the notice of proposed rulemaking, published at 47 Pa.B. 4689, to IRRC and the Chairpersons of the House and Senate Committees for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the House and Senate Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing this final-form rulemaking, the Department has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on July 17, 2019, this final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on July 18, 2019, and approved this final-form rulemaking.

Findings

The Department finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) The adoption of this final-form rulemaking in the manner provided by this order is necessary and appropriate for the administration and enforcement of the Human Services Code.

Order

The Department, acting under Articles IX and X of the Human Services Code (62 P.S. §§ 901—922 and 1001—1059), orders that:

(a) The regulations of the Department, 55 Pa. Code Chapters 1153 and 5200, are amended by adding §§ 5200.24, 5200.33, 5200.51 and 5200.52 and deleting §§ 1153.23, 1153.24 and 1153.53a and amending §§ 1153.1, 1153.2, 1153.11, 1153.12, 1153.14, 1153.21, 1153.22, 1153.41, 1153.42, 1153.51—1153.53, 5200.1—5200.7, 5200.11, 5200.12, 5200.21—5200.23, 5200.31, 5200.32, 5200.41—5200.46 and 5200.48 to read as set forth in Annex A of this order.

(*Editor's Note:* Proposed § 5200.53 has been withdrawn and is not being adopted in this final-form rulemaking.)

(b) The Secretary of the Department shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as to legality and form as required by law.

(c) The Secretary of the Department shall certify and deposit this order and Annex A with the Legislative Reference Bureau as required by law.

(d) This order shall take effect upon final-form publication in the *Pennsylvania Bulletin*.

TERESA D. MILLER,
Secretary

(*Editor's Note:* See 49 Pa.B. 4087 (August 3, 2019) for IRRC's approval order.)

Fiscal Note: Fiscal Note ID # 14-538 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 55. HUMAN SERVICES

PART III. MEDICAL ASSISTANCE MANUAL CHAPTER 1153. OUTPATIENT BEHAVIORAL HEALTH SERVICES GENERAL PROVISIONS

§ 1153.1. Policy.

The MA Program provides payment for specific medically necessary psychiatric outpatient clinic services, MMHT services and psychiatric outpatient partial hospitalization services rendered to eligible MA beneficiaries by psychiatric outpatient clinics and psychiatric outpatient partial hospitalization facilities enrolled as providers under the program. Payment for behavioral health services is subject to the provisions of this chapter, Chapter 1101 (relating to general provisions) and the limitations established in Chapter 1150 (relating to MA Program payment policies) and the MA Program Fee Schedule.

§ 1153.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Adult partial hospitalization program—A program licensed by the Department, Office of Mental Health and Substance Abuse Services, to provide partial hospitalization services to individuals 15 years of age or older.

Advanced practice professional—A person who holds a current Pennsylvania license as a certified registered nurse practitioner or a physician assistant and:

(1) Holds a mental health certification, or

(2) Obtains a mental health certification within 2 years of being hired by the psychiatric outpatient clinic or by July 30, 2020, whichever is later.

Children and youth partial hospitalization program—A program licensed by the Department, Office of Mental Health and Substance Abuse Services, to provide partial hospitalization services to individuals under 15 years of age.

Clinical staff—A psychiatrist or a mental health professional or mental health worker under the direct supervision of a psychiatrist.

Collateral family psychotherapy—Psychotherapy provided to the family members of an individual receiving psychiatric outpatient clinic services in the absence of the individual.

Department—The Department of Human Services.

Facility—A mental health establishment, hospital, clinic, institution, center or other organizational unit or part thereof, the primary function of which is the diagnosis, treatment, care and rehabilitation of individuals with mental illness or emotional disturbance.

Family—A person living alone or the following persons: spouses; parents and their unemancipated minor children and other unemancipated minor children who are related by blood or marriage; or other adults or emancipated minor children living in the household who are dependent upon the head of the household.

Family psychotherapy—Psychotherapy provided to two or more members of a family. At least one family member shall have a diagnosed mental illness or emotional disturbance. Sessions shall be conducted by a clinical staff person.

Group psychotherapy—Psychotherapy provided to no less than 2 and no more than 12 persons with diagnosed

mental illness or emotional disturbance. These sessions shall be conducted by a clinical staff person.

Individual psychotherapy—Psychotherapy provided to one person with a diagnosed mental illness or emotional disturbance. These sessions shall be conducted by a clinical staff person.

Inpatient services—Treatment provided to an individual who has been admitted to a treatment institution or an acute care hospital or psychiatric hospital on the recommendation of a physician and is receiving room, board and professional services in the facility on a continuous 24-hour-a-day basis.

Intake—The first contact with an individual for the initiation of or re-admission to outpatient behavioral health services covered by this chapter.

Interactive audio and video—Real-time two-way or multiple-way communication.

LPHA—Licensed Practitioner of the Healing Arts—A person who is licensed by the Commonwealth to practice the healing arts. This term is limited to a physician, physician's assistant, certified registered nurse practitioner, licensed clinical social worker, licensed marriage and family therapist, licensed professional counselor or psychologist.

MMHT—Mobile Mental Health Treatment—One or more of the following services provided in an individual's residence or approved community site:

- (i) Assessment.
- (ii) Individual, group or family therapy.
- (iii) Medication visits.

Mental health professional—A person who meets one of the following:

(i) Has a graduate degree from a college or university that is accredited by an agency recognized by the United States Department of Education or the Council for Higher Education Accreditation (CHEA) in a generally recognized clinical discipline in which the degree program includes a clinical practicum.

(ii) Has an equivalent degree from a foreign college or university that has been evaluated by the Association of International Credential Evaluators, Inc. (AICE) or the National Association of Credential Evaluation Services (NACES). The Department will accept a general equivalency report from the listed evaluator agencies to verify a foreign degree or its equivalency.

(iii) Is licensed in a generally recognized clinical discipline that includes mental health clinical experience.

Mental health worker—A person acting under the supervision of a mental health professional to provide services who meets one of the following:

(i) Has a bachelor's degree from a college or university that is accredited by an agency recognized by the United States Department of Education or the CHEA in a recognized clinical discipline including social work, psychology, nursing, rehabilitation or activity therapies.

(ii) Has a graduate degree in a clinical discipline with 12 graduate-level credits in mental health or counseling from a program that is accredited by an agency recognized by the United States Department of Education or the CHEA.

(iii) Has an equivalent degree from a foreign college or university that has been evaluated by the AICE or the NACES. The Department will accept a general equivalency report from the listed evaluator agencies to verify a foreign degree or its equivalency.

Mental illness or emotional disturbance—A mental disorder that meets the diagnostic criteria within the current version of the *Diagnostic and Statistical Manual of Mental Disorders* or the *International Classification of Diseases (ICD)*.

Outpatient services—Medical or behavioral health services provided to an individual by a psychiatric outpatient clinic or partial hospitalization outpatient facility that does not provide room, board and professional services on a continuous 24-hour-a-day basis.

Psychiatric clinic clozapine monitoring and evaluation visit—A visit for the monitoring and evaluation of an individual's physical and mental condition during the course of treatment with clozapine. The term includes only a visit provided to an eligible individual receiving clozapine therapy, and only by a psychiatrist, physician, certified registered nurse practitioner, registered nurse or physician assistant.

Psychiatric clinic medication visit—A visit only for administration of a drug and evaluation of an individual's physical or mental condition during the course of prescribed medication. This visit is provided to an eligible individual only by a psychiatrist, physician, certified registered nurse practitioner, physician assistant, registered nurse or licensed practical nurse.

Psychiatric evaluation—An initial mental status examination and evaluation of an individual provided only by a psychiatrist in a face-to-face interview or through the use of interactive audio and video communication that conforms to industry-wide technology standards and is in compliance with State and Federal privacy and security laws. It must include a comprehensive history and evaluation of pertinent diagnostic information necessary to arrive at a diagnosis and recommendations for treatment or further diagnostic studies or consultation. The history must include individual, social, family, occupational, drug, medical and previous psychiatric diagnostic and treatment information.

Psychiatric outpatient clinic provider—A facility enrolled in the MA Program to provide psychiatric outpatient clinic services and licensed by the Department, Office of Mental Health and Substance Abuse Services, to provide specific medical, psychiatric and psychological services for the diagnosis and treatment of mental illness or emotional disturbance.

Psychiatric outpatient clinic services—Outpatient medical, psychiatric and psychological services listed in the MA Program Fee Schedule furnished to an individual with mental illness or emotional disturbance while the individual is not a resident of a treatment institution, provided by or under the direction of a psychiatrist.

Psychiatric outpatient partial hospitalization provider—A facility enrolled in the MA Program to provide partial hospitalization outpatient services and licensed by the Department, Office of Mental Health and Substance Abuse Services, to provide psychiatric, medical, psychological and psychosocial services as partial hospitalization for the diagnosis and treatment of mental illness or emotional disturbance.

Psychiatric partial hospitalization—An active outpatient psychiatric day or evening treatment session including medical, psychiatric, psychological and psychosocial treatment listed in the MA Program Fee Schedule. This service shall be provided to an individual with mental illness or emotional disturbance on a planned and regularly scheduled basis for a minimum of 3 hours but less than 24 hours in any 1 day. The session shall be provided by a psychiatrist or by psychiatric partial hospitalization personnel under the direction of a psychiatrist.

Psychologist in preparation for licensure—A person who has completed the educational requirements for licensure and is accruing the required postdegree experience for licensing.

Psychotherapy—The treatment, by psychological means, of the problems of an emotional nature in which a trained person deliberately establishes a professional relationship with an individual with the objective of removing, modifying or relieving existing symptoms of mediating disturbed patterns of behavior and of promoting positive personality growth and development.

Tele-behavioral health—

(i) The use of interactive audio and video communication to provide clinical services at a distance using technology that conforms to the industry-wide standards and is in compliance with State and Federal privacy and security laws.

(ii) Tele-behavioral health does not include telephone conversation, electronic mail message or facsimile transmission between a psychiatrist or an advanced practice professional and an individual receiving services or a consultation between two health care practitioners, although these activities may support the delivery of tele-behavioral health.

Treatment institution—A facility approved or licensed by the Department or its agents that provides full-time psychiatric treatment services for resident individuals with mental illness or emotional disturbance, residential facilities for individuals with intellectual disabilities or community residential rehabilitation services are not considered to be mental health treatment institutions.

Under the direction of a psychiatrist—Receiving oversight and consultation by a psychiatrist in the medical, psychiatric and psychological services provided to individuals by psychiatric outpatient clinic or partial hospitalization personnel.

COVERED AND NONCOVERED SERVICES

§ 1153.11. Types of services covered.

Medical Assistance Program coverage for psychiatric outpatient clinics, partial hospitalization outpatient facilities and MMHT services is limited to professional medical and psychiatric services for the diagnosis and treatment of mental illness or emotional disturbance, including a mental illness or emotional disturbance along with an intellectual disability, as specified in the MA Program Fee Schedule provided by psychiatric outpatient clinic providers and psychiatric outpatient partial hospitalization providers to MA beneficiaries.

§ 1153.12. Outpatient services.

The psychiatric outpatient clinic services specified in the MA Program Fee Schedule and the psychiatric partial hospitalization outpatient services specified in the MA Program Fee Schedule are covered only when provided by licensed psychiatric outpatient clinics or psychiatric partial hospitalization outpatient facilities under the direction of a psychiatrist. MMHT services specified in the MA Program Fee Schedule are covered only when provided by a licensed psychiatric outpatient clinic that has an approved service description for MMHT. Payment is subject to the conditions and limitations established in this chapter and Chapter 1101 (relating to general provisions).

§ 1153.14. Noncovered services.

Payment will not be made for the following types of services regardless of where or to whom they are provided:

(1) A covered psychiatric outpatient clinic, MMHT or partial hospitalization outpatient service conducted over the telephone.

* * * * *

(4) An MA covered service, including psychiatric outpatient clinic, MMHT and partial hospitalization outpatient services, provided to inmates of State or county correctional institutions or committed residents of public institutions.

(5) Psychiatric outpatient clinic, MMHT or partial hospitalization outpatient services to residents of treatment institutions, such as individuals who are also being provided with room or board, or both, and services, on a 24-hour-a-day basis by the same facility or distinct part of a facility or program.

(6) Services delivered at locations other than licensed psychiatric outpatient clinics with the exception of MMHT under the conditions specified in § 1153.52(d) (relating to payment conditions for various services) or partial hospitalization outpatient facilities.

* * * * *

(9) Psychiatric outpatient clinic services, MMHT services and psychiatric partial hospitalization outpatient services provided on the same day to the same individual, with the exception of clinical services not offered by the facility providing services to the individual.

(10) Covered psychiatric outpatient clinic services, MMHT services and psychiatric partial hospitalization outpatient services, with the exception of family psychotherapy, provided to persons without a mental diagnosis rendered by a psychiatrist in accordance with the current version of the *Diagnostic and Statistical Manual of Mental Disorders* or the *International Classification of Diseases*—Chapter V, “Mental, Behavioral, and Neurodevelopmental Disorders.”

(11) Psychiatric outpatient clinic, MMHT and psychiatric partial hospitalization outpatient services provided to individuals with substance-related and addictive disorders, unless the individual has a primary diagnosis of a mental illness or emotional disturbance.

(12) Drugs, biologicals and supplies furnished to an individual receiving services at a psychiatric outpatient clinic or a partial hospitalization outpatient facility during a visit to the psychiatric outpatient clinic or partial hospitalization outpatient facility. These are included in the psychiatric outpatient clinic medication visit fee or partial hospitalization session payment. Separate billings from any source for items and services provided by the psychiatric outpatient clinic are noncompensable.

(13) Services not specifically included in the MA Program Fee Schedule are noncompensable.

(14) MMHT services not provided in accordance with the conditions specified in § 1153.52(d).

(15) Services provided beyond the 30th calendar day following intake, without review and approval of the initial assessment and treatment plan in accordance with § 1153.52(a)(7) and (8).

(16) The hours that the individual participates in an education program delivered in the same setting as a children and youth partial hospitalization outpatient program unless, in addition to the teacher, a clinical staff person works with the child in the classroom. The Department will reimburse for only that time during which the individual is in direct contact with a clinical staff person.

(17) Group psychotherapy provided in the individual’s home.

(18) Psychiatric outpatient clinic and partial hospitalization outpatient services provided to nursing home residents on the grounds of the nursing home or under the corporate umbrella of the nursing home.

(19) Electroconvulsive therapy and electroencephalogram provided through MMHT.

(20) MMHT services provided on the same day as other home and community-based behavioral health services to the same individual with the exception of clinical services not offered by the psychiatric outpatient clinic.

SCOPE OF BENEFITS

§ 1153.21. Scope of benefits for children under 21 years of age.

Children under 21 years of age are eligible for the full range of covered psychiatric outpatient clinic, MMHT and psychiatric partial hospitalization services in the MA Program Fee Schedule.

§ 1153.22. Scope of benefits for adults 21 years of age or older.

Adults 21 years of age or older are eligible for the full range of covered psychiatric outpatient clinic, MMHT and psychiatric partial hospitalization services in the MA Program Fee Schedule.

§ 1153.23. (Reserved).

§ 1153.24. (Reserved).

PROVIDER PARTICIPATION

§ 1153.41. Participation requirements.

In addition to the participation requirements established in Chapter 1101 (relating to general provisions), psychiatric outpatient clinics and partial hospitalization outpatient facilities shall meet the following participation requirements:

(1) Have current licensure as a psychiatric outpatient clinic or partial hospitalization outpatient facility by the Department's Office of Mental Health and Substance Abuse Services. To remain eligible for MA reimbursement, a psychiatric outpatient clinic or partial hospitalization outpatient facility shall be licensed at all times as a psychiatric outpatient clinic or partial hospitalization outpatient facility.

* * * * *

(3) Have a written referral plan for individuals receiving services that provides for inpatient hospital care and follow-up treatment.

* * * * *

(5) Appoint an administrator or director responsible for the internal operation of the psychiatric outpatient clinic or partial hospitalization outpatient facility. Appoint a psychiatrist or psychiatrists responsible for the supervision and direction of services rendered to eligible individuals.

(6) Notify immediately the Department, Office of Medical Assistance Programs, Bureau of Fee-for-Services, in the manner prescribed by the Department, of facility or clinic name, address and service changes prior to the effective date of change. Failure to do so may result in payment interruption or termination of the provider agreement.

* * * * *

(8) Have each branch location or satellite of a licensed psychiatric outpatient clinic or partial hospitalization outpatient facility also licensed by the Office of Mental Health and Substance Abuse Services as a psychiatric outpatient clinic site or psychiatric hospitalization outpa-

tient facility, whichever is applicable, and enrolled by the Office of Medical Assistance Programs before reimbursement can be made for services rendered at the branch or satellite. Licensure and enrollment of the parent organization does not constitute licensure and enrollment for any branches or satellites of the same organization.

(9) Be enrolled as a provider in the Medical Assistance Program.

(10) Have medications prescribed by a licensed psychiatrist, physician, certified registered nurse practitioner or physician assistant within the practitioner's scope of practice.

(11) Psychiatric outpatient clinics providing MMHT services shall have a service description approved by the Department under the conditions specified in § 5200.51 (relating to provider service description).

§ 1153.42. Ongoing responsibilities of providers.

(a) *Responsibilities of providers.* Ongoing responsibilities of providers are established in Chapter 1101 (relating to general provisions). Psychiatric outpatient clinics and psychiatric partial hospitalization outpatient facilities shall also adhere to the additional requirements established in this section.

(b) *Recordkeeping requirements.* In addition to the requirements listed in § 1101.51(e) (relating to ongoing responsibilities of providers), the following items must be included in the records of MA beneficiaries receiving psychiatric outpatient clinic, MMHT and psychiatric partial hospitalization outpatient services:

(1) The treatment plan must include:

(i) The treatment plan goals.

(ii) Services to be provided to the individual by the psychiatric outpatient clinic or partial hospitalization outpatient facility or through referral.

(iii) Persons to directly provide each service.

(2) As part of the progress notes, the frequency and duration of each service provided shall be included.

PAYMENT FOR OUTPATIENT BEHAVIORAL HEALTH SERVICES

§ 1153.51. General payment policy.

(a) Payment is made for medically necessary professional medical and psychiatric services provided by or under the supervision and direction of a psychiatrist by participating psychiatric outpatient clinics and psychiatric partial hospitalization outpatient facilities subject to the conditions and limitations established in this chapter and Chapters 1101 and 1150 (relating to general provisions; and MA Program payment policies) and the MA Program Fee Schedule.

(b) The Department will publish procedures for the use of tele-behavioral health to provide compensable psychiatric outpatient clinic or psychiatric partial hospitalization services in the *Pennsylvania Bulletin*.

(c) Payment will not be made for a compensable psychiatric outpatient clinic, MMHT or psychiatric partial hospitalization outpatient service if payment is available from another public agency or another insurance or health program.

§ 1153.52. Payment conditions for various services.

(a) The following conditions shall be met by psychiatric outpatient clinics and partial hospitalization outpatient programs, as applicable, to be eligible for payment:

(1) A psychiatrist shall be present in the psychiatric outpatient clinic and partial hospitalization outpatient facility, as required by the Office of Mental Health and

Substance Abuse Services licensing regulations, to perform or supervise the performance of all covered services provided to MA beneficiaries.

(2) Psychiatric evaluations shall be performed only by a psychiatrist in a face-to-face interview or using interactive audio and video communication that conforms to industry-wide technology standards with the individual and is in compliance with State and Federal privacy and security laws. Additional interviews with other staff may be included as part of the examination but shall be included in the psychiatric evaluation fee. Separate billings for these additional interviews are not compensable.

* * * * *

(6) The psychiatric outpatient clinic medication visit shall be provided only by a psychiatrist, physician, certified registered nurse practitioner, physician assistant, registered nurse or licensed practical nurse.

(7) Within 30 consecutive calendar days following intake for individuals who continue to participate in the treatment process, a mental health professional or mental health worker under the supervision of a mental health professional, shall:

(i) Interview and complete an assessment with each individual receiving services from the psychiatric outpatient clinic.

(ii) Develop the initial treatment plan based upon the assessment in collaboration with the individual.

(iii) Date and sign the initial treatment plan.

(iv) Request the individual to sign and date the treatment plan. In the event the individual does not sign the treatment plan, the mental health professional or mental health worker shall document the request in the record.

(8) The initial treatment plan shall be reviewed and approved in accordance with the following:

(i) If the individual is receiving psychotherapy and other clinic services, the psychiatrist or advanced practice professional shall review, approve, sign and date the initial treatment plan.

(ii) If the individual is receiving medication management services only, the psychiatrist, physician, certified registered nurse practitioner or physician assistant responsible for prescribing and monitoring the use of the medications shall sign and date the initial treatment plan.

(iii) The initial treatment plan shall be developed, reviewed, approved, dated and signed prior to the provision of any treatment services beyond the 30th day following intake.

(iv) The initial treatment plan shall be kept in the individual record.

(9) The treatment plan shall be reviewed and updated at least every 180 days or as may otherwise be required by law throughout the duration of treatment in accordance with the following:

(i) The treatment plan updates shall be based upon the assessment, diagnosis and input from the treatment team and individual receiving services.

(ii) The treatment plan update shall be signed and dated by the mental health professional, mental health worker under the supervision of the mental health professional, certified registered nurse practitioner or physician assistant providing treatment services to the individual.

(iii) The mental health professional or the mental health worker shall request the individual to sign and date the treatment plan update. In the event the individual does not sign the treatment plan, the mental

health professional or mental health worker shall document the request in the record.

(iv) The treatment plan update shall be kept in the individual record.

(10) Treatment shall be provided in accordance with the identified goals in the treatment plan and updates.

(11) The treatment plan shall be reviewed on an annual basis by the psychiatrist or advanced practice professional throughout the course of treatment from the psychiatric outpatient clinic and the review documented in the individual record.

(12) The psychiatric clinic clozapine monitoring and evaluation visit shall be used only for an individual receiving clozapine therapy.

(b) *Psychiatric outpatient partial hospitalization.* Payment will only be made for psychiatric partial hospitalization outpatient services provided to eligible individuals with mental illness or emotional disturbance in psychiatric partial hospitalization outpatient facilities under the following conditions:

(1) Individuals receiving partial hospitalization outpatient services shall meet the following criteria:

(i) Have a mental disorder diagnosis that has been verified by a psychiatrist.

(ii) Have a psychiatric condition requiring more intensive treatment than that provided by an outpatient clinic.

(iii) Be diagnosed with a mental illness or emotional disturbance and prescribed services for a period of at least 3 hours but less than 24 hours in any 1 day to prevent hospitalization or to support the transition from inpatient treatment to outpatient services.

(2) The following components shall be available in a psychiatric partial hospitalization outpatient facility and provided to an individual, if necessary, in accordance with the individualized treatment plan:

(i) Individual, group and family psychotherapy.

* * * * *

(v) Medication administration and evaluation provided only by a psychiatrist, physician, certified registered nurse practitioner, physician assistant, registered nurse or licensed practical nurse.

* * * * *

(c) *Psychiatric outpatient clinic.* Payment will only be made for psychiatric outpatient clinic services or MMHT services provided to eligible individuals with mental illness or emotional disturbance by psychiatric outpatient clinics under the following conditions:

(1) Medication visits shall be provided only for the purpose of administering medication and for evaluating the physical and mental condition of an individual during the course of prescribed medication.

(2) Individuals receiving psychiatric outpatient clinic services or MMHT services shall have a mental illness or emotional disturbance diagnosis verified by a psychiatrist or LPHA.

(3) Family psychotherapy is compensable only if one or more family members has a mental disorder diagnosis.

(4) Clozapine monitoring and evaluation visits shall be provided only for an individual receiving clozapine and for monitoring and evaluating the individual's absolute neutrophil count to determine whether clozapine therapy should be continued or modified.

(d) *MMHT.* MMHT services are subject to the conditions and limitations established in this chapter. MMHT services provided in the home or other approved community sites are compensable only if documentation in the individual record substantiates all of the following:

(1) The services are provided to an eligible individual with mental illness or emotional disturbance.

(2) There is a written recommendation for MMHT services from a LPHA acting within the scope of professional practice.

(3) The services if provided in a psychiatric outpatient clinic would be medically necessary.

(4) The assessment documents a mental or physical illness that impedes or precludes the individual's ability to participate in services at the psychiatric outpatient clinic.

(5) Treatment plan updates document the continued clinical need for MMHT services.

§ 1153.53. Limitations on payment.

Payment is subject to the following limitations:

(1) Psychiatric partial hospitalization outpatient service is provided for at least 3 hours per 24-hour period.

(2) The partial hospitalization outpatient service fees listed in the MA Program Fee Schedule include payment for all services rendered to the individual during a psychiatric partial hospitalization outpatient session. Separate billings for individual services are not compensable.

(3) Partial hospitalization outpatient facilities licensed for adult programs will be reimbursed at the adult rate, regardless of the age of the individual receiving treatment.

(4) Partial hospitalization outpatient facilities licensed as children and youth programs will be reimbursed at the child rate only when the individual receiving treatment is under 15 years of age.

(5) Family psychotherapy and collateral family psychotherapy are compensable for only one person per session, regardless of the number of family members who participate in the session or the number of participants who are eligible for psychotherapy.

(6) MMHT group therapy shall be provided only in an approved community-based site as specified in the treatment plan to individuals receiving MMHT services from the psychiatric outpatient clinic.

§ 1153.53a. (Reserved).

PART VII. MENTAL HEALTH MANUAL

Subpart D. NONRESIDENTIAL AGENCIES/FACILITIES/SERVICES

CHAPTER 5200. PSYCHIATRIC OUTPATIENT CLINICS

GENERAL PROVISIONS

§ 5200.1. Legal base.

The legal authority for this chapter is sections 105 and 112 of the Mental Health Procedures Act (50 P.S. §§ 7105 and 7112), section 201(2) of the Mental Health and Intellectual Disability Act of 1966 (50 P.S. § 4201(2)) and section 1021 of the Human Services Code (62 P.S. § 1021).

§ 5200.2. Scope.

(a) This chapter provides standards for the licensing of freestanding psychiatric outpatient clinics under section 1021 of the Human Services Code (62 P.S. § 1021), and approval of psychiatric outpatient clinics which are a part of a health care facility as defined in section 802.1 of the Health Care Facilities Act (35 P.S. § 448.802a), and under sections 105 and 112 of the Mental Health Procedures Act (50 P.S. §§ 7105 and 7112).

(b) This chapter applies to private, nonprofit or for-profit corporations and public entities which provide medical examination, diagnosis, care, treatment and support to individuals with mental illness or emotional disturbance on an outpatient basis and which participate in the public mental health program. This chapter does not apply to group or individual practice arrangements of private practitioners.

§ 5200.3. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Advanced practice professional—A person who holds a current Pennsylvania license as a certified registered nurse practitioner or a physician assistant and:

- (1) Holds a mental health certification, or
- (2) Obtains a mental health certification within 2 years of being hired by the psychiatric outpatient clinic or by July 30, 2020, whichever is later.

Assessment—A face-to-face interview that includes an evaluation of the behavioral health, medical, psychological, social, vocational and educational factors important to the individual.

Child psychiatrist—A physician who has completed a residency in psychiatry and who has a specialty in child psychiatry and is licensed to practice in this Commonwealth.

Department—The Department of Human Services.

FTE—Full-time equivalent—Thirty-seven and one half hours per week.

Facility—A mental health establishment, hospital, clinic, institution, center or other organizational unit or part thereof, the primary function of which is the diagnosis, treatment, care and rehabilitation of individuals with mental illness or emotional disturbance.

Interactive audio and video—Real-time two-way or multiple-way communication.

LPHA—Licensed Practitioner of the Healing Arts—A person who is licensed by the Commonwealth to practice the healing arts. The term is limited to a physician, physician assistant, certified registered nurse practitioner, licensed clinical social worker, licensed marriage and family therapist, licensed professional counselor or psychologist.

MMHT—Mobile Mental Health Treatment—One or more of the following services provided in an individual's residence or approved community site:

- (i) Assessment.
- (ii) Individual, group or family therapy.
- (iii) Medication visits.

Mental health professional—A person who meets one of the following:

(i) Has a graduate degree from a college or university that is accredited by an agency recognized by the United States Department of Education or the Council for Higher Education Accreditation (CHEA) in a generally recognized clinical discipline in which the degree program includes a clinical practicum.

(ii) Has an equivalent degree from a foreign college or university that has been evaluated by the Association of International Credential Evaluators, Inc. (AICE) or the National Association of Credential Evaluation Services (NACES). The Department will accept a general equivalency report from the listed evaluator agencies to verify a foreign degree or its equivalency.

(iii) Is licensed in a generally recognized clinical discipline that includes mental health clinical experience.

Mental health worker—A person acting under the supervision of a mental health professional to provide services who meets one of the following:

(i) Has a bachelor's degree from a college or university that is accredited by an agency recognized by the United States Department of Education or the CHEA in a recognized clinical discipline including social work, psychology, nursing, rehabilitation or activity therapies.

(ii) Has a graduate degree in a clinical discipline with 12 graduate-level credits in mental health or counseling from a program that is accredited by an agency recognized by the United States Department of Education or the CHEA.

(iii) Has an equivalent degree from a foreign college or university that has been evaluated by the AICE or the NACES. The Department will accept a general equivalency report from the listed evaluator agencies to verify a foreign degree or its equivalency.

Mental illness or emotional disturbance—A mental disorder that meets the diagnostic criteria within the current version of the *Diagnostic and Statistical Manual of Mental Disorders* or the *International Classification of Diseases (ICD)*.

Psychiatric outpatient clinic—A nonresidential treatment setting in which psychiatric, psychological, social, educational and other related services are provided under medical supervision. It is designed for the evaluation and treatment of individuals with mental illness or emotional disturbance. Psychiatric outpatient services are provided on a planned and regularly scheduled basis.

Psychiatrist—A physician who has completed at least 3 years of a residency in psychiatry and is licensed to practice in this Commonwealth.

Psychologist—A person licensed to practice psychology in this Commonwealth.

Quality assurance program—A formal process to assure quality care and maximize program benefits to individuals receiving services.

Tele-behavioral health—

(i) The use of interactive audio and video communication to provide clinical services at a distance using technology that conforms to the industry-wide standards and is in compliance with State and Federal privacy and security laws.

(ii) Tele-behavioral health does not include telephone conversation, electronic mail message or facsimile transmission between a psychiatrist or an advanced practice professional and an individual receiving services, or a consultation between two health care practitioners, although these activities may support the delivery of tele-behavioral health.

§ 5200.4. Provider eligibility.

Psychiatric outpatient clinic services for individuals with mental illness or emotional disturbance shall be provided only by a facility which complies with this chapter and is licensed by the Department. Nothing in this chapter is intended to regulate the provision of mental health services in individual or group private practice.

§ 5200.5. Application and review process.

(a) A facility intending to provide psychiatric outpatient clinic services shall file an application for a certificate of compliance with the Department in accordance with Chapter 20 (relating to licensure or approval of

facilities and agencies). Facilities shall meet both the requirements of Chapter 20 and this chapter to obtain a certificate. Submission of an application does not constitute a certificate to operate pending Departmental approval.

(b) Facilities will be inspected a minimum of once per year, and are subject to visits by the Department's designee at other times at the Department's discretion. The facility shall provide information concerning program and fiscal operation at the Department's request.

§ 5200.6. Objective.

The objective of the psychiatric outpatient clinic treatment services is to facilitate an individual's recovery to improve functioning, enhance resiliency and well-being, promote independence and maintain optimal functioning in the community consistent with the individual's preferences. The service may be provided to individuals with short-term or long-term treatment needs.

§ 5200.7. Program standards.

This chapter shall be met by a facility seeking licensure or approval.

ORGANIZATION

§ 5200.11. Organization and structure.

(a) The psychiatric outpatient clinic must be a separate, identifiable organizational unit with its own director, clinical supervisor and staffing pattern. When the psychiatric outpatient clinic is a portion of a larger organizational structure, the director and clinical supervisor of the psychiatric outpatient clinic shall be identified and their responsibilities clearly defined.

(b) The organizational structure of the unit must be described in an organizational chart.

(c) A written description of programs provided by the unit shall be available to the Department.

(d) The psychiatric outpatient clinic shall notify the Department within 10 days of a major change in the organizational structure or services.

§ 5200.12. Linkages with mental health service system.

(a) A psychiatric outpatient clinic requires a close relationship with an acute psychiatric inpatient service and a provider of emergency examination and treatment. A written statement describing the accessibility and availability of the services to individuals is required and shall be maintained on file at the psychiatric outpatient clinic and updated as needed.

(b) A psychiatric outpatient clinic shall maintain linkages with other treatment and rehabilitative services for a full continuum of care, including crisis services, partial hospitalization programs, peer support, psychiatric rehabilitation programs, intensive community services, community residential programs and community psychiatric hospitals. A written statement describing the accessibility and availability of the services to individuals is required and shall be maintained on file at the psychiatric outpatient clinics and updated as needed to accurately state the services currently available.

(c) When the psychiatric outpatient clinic serves children, linkages with the appropriate educational and social service agencies shall also be maintained. A written statement describing the accessibility and availability of the services to children is required and shall be maintained on file at the psychiatric outpatient clinic and updated as needed to accurately state the services currently available.

(d) A psychiatric outpatient clinic shall participate in the overall system of care as defined in the County Mental Health/Intellectual Disability (MH/ID) plan. A psychiatric outpatient clinic shall have an agreement regarding continuity of care and information exchange with the County MH/ID authority. A copy of an agreement must be included in the application package. Psychiatric outpatient clinics shall document the need for their services in their application for a certificate of compliance.

(e) New psychiatric outpatient clinics or new sites of existing psychiatric outpatient clinics established after the effective date of this chapter shall document the need in the proposed service area for the expansion of outpatient services. County MH/ID authorities shall review this documentation and make a recommendation to the Department. The Department may deny approval of the expansion where inadequate justification is provided.

STAFFING AND PERSONNEL

§ 5200.21. Qualifications and duties of the director/clinical supervisor.

(a) Each psychiatric outpatient clinic shall have a director and clinical supervisor, who may be the same individual. A clinical supervisor shall be a mental health professional with at least 2 years of supervisory experience.

(b) The director shall be responsible for the overall operation of the psychiatric outpatient clinic, including daily management, ensuring that clinical supervision is available during all operational hours, developing a quality improvement plan for the psychiatric outpatient clinic and monitoring adherence with this chapter.

(c) The clinical supervisor's responsibilities shall include all of the following:

- (1) Supervision of clinical staff.
- (2) Development or implementation of the policies and procedures for the operation of the psychiatric outpatient clinic.
- (3) Regular meetings of clinical staff to discuss clinical cases, treatment plans, policies and procedures.
- (4) Liaison with other portions of the service system.
- (5) Employment, supervision and discharge of clinical staff according to established personnel policies.
- (6) Supervision and documentation of clinical staff training and development.

§ 5200.22. Staffing pattern.

(a) There shall be qualified staff and supporting personnel in sufficient numbers to provide the services included in the psychiatric outpatient clinic's program as follows:

- (1) At least 50% of the treatment staff providing psychotherapy services shall be mental health professionals.
- (2) A psychiatric outpatient clinic is required to have 2 hours of psychiatric time per week for each FTE mental health professional and mental health worker providing clinical services.
- (3) The psychiatrist must provide 50% of the required psychiatric time at the psychiatric outpatient clinic.
- (4) The remaining 50% of the psychiatric time may be provided by:
 - (i) An advanced practice professional.
 - (ii) A psychiatrist off-site by the use of tele-behavioral health.
 - (iii) A combination of subparagraphs (i) and (ii).

(b) All clinical staff shall be supervised by the psychiatrist having the overall responsibility for clinical services provided by the psychiatric outpatient clinic as defined in § 5200.23 (relating to psychiatric supervision).

(c) There shall be sufficient clerical staff to keep correspondence, records and files current and in good order.

(d) The psychiatric outpatient clinic shall recruit and hire staff that is appropriate for the population to be served.

(e) If the psychiatric outpatient clinic serves children, specialized personnel are required, as appropriate, to deliver services to children.

(f) Each psychiatric outpatient clinic shall have a written comprehensive personnel policy.

(g) There shall be a written plan for regular, ongoing staff development and training.

(h) Graduate and undergraduate students in accredited training programs in various mental health disciplines may participate in the treatment of individuals receiving services when under the direct supervision of a mental health professional, but are not to be included for the purpose of defining staffing patterns.

(i) Psychiatric residents with an unrestricted license to practice medicine in this Commonwealth who are under the direct supervision of a psychiatrist are defined as mental health professionals for the purpose of defining staffing patterns.

(j) Volunteers may be used in various support and activity functions of the clinic, but are not considered for the purposes of defining staffing patterns.

§ 5200.23. Psychiatric supervision.

The supervision of a psychiatric outpatient clinic shall be by a psychiatrist and, at a minimum, include the following:

- (a) Establishment of appropriate standards for treatment and prescribing practices.
- (b) Involvement in the quality management process.
- (c) Participation in clinical staff meetings 2 times per month. The psychiatric outpatient clinic shall maintain written documentation of clinical staff meetings, including attendance.
- (d) Consultation to all clinical staff.

§ 5200.24. Criminal history and child abuse certification.

(a) A psychiatric outpatient clinic shall have documentation of the completed criminal history background check for staff, including volunteers that will have direct contact with an individual.

(b) A psychiatric outpatient clinic that serves children shall have documentation of the completed criminal history and child abuse certifications, and mandated reporter training in accordance with 23 Pa.C.S. §§ 6301—6386 (relating to the Child Protective Services Law) and Chapter 3490 (relating to protective services) for all staff, including volunteers that will have direct contact with children.

(c) A psychiatric outpatient clinic shall develop and implement written policies and procedures regarding personnel decisions based on the criminal history and child abuse certification, including volunteers.

TREATMENT STANDARDS

§ 5200.31. Treatment planning.

(a) For each individual receiving services, a mental health professional or mental health worker under the supervision of a mental health professional shall complete

an assessment of the behavioral health, medical, psychological, social, vocational, educational and other factors important to the individual prior to the development of the initial comprehensive treatment plan.

(b) An initial comprehensive treatment plan shall be developed, reviewed and approved within 30 days of the intake and assessment with every individual who continues to participate in the treatment process in accordance with the following:

(1) The mental health professional or the mental health worker under the supervision of the mental health professional and the individual receiving services shall develop, sign and date the initial treatment plan.

(2) If the individual is receiving psychotherapy and other clinical services, the psychiatrist or advanced practice professional shall review, approve, sign and date the initial treatment plan.

(3) If the individual is receiving medication management services only, the psychiatrist, physician, certified registered nurse practitioner or physician assistant responsible for prescribing and monitoring the use of the medication shall review, approve, sign and date the initial treatment plan.

(4) For individuals under an involuntary outpatient commitment, the mental health professional or advanced practice professional providing services and the individual shall develop, review, sign and date the initial treatment plan. The treatment plan shall be reviewed and signed by the psychiatrist as part of the oversight of the treatment services provided.

(c) The treatment plan must be based upon the assessment and shall:

(1) Specify the goals and objectives of the plan, prescribe an integrated program of therapeutic activities and experiences, specify the modalities to be utilized and the expected duration of services and the person or persons responsible for carrying out the plan.

(2) Be directed at specific outcomes and connect these outcomes with the treatment modalities and activities proposed.

(3) Be developed with the active involvement of the individual receiving services and shall include strengths and needs. The treatment plan may also address individual preferences, resilience and functioning.

(4) For children and adolescents under 14 years of age, be developed and implemented with the consent of parents or guardians and include their participation in treatment as required by statute or regulation.

(5) Specify an individualized treatment program for each individual, which shall include clinically appropriate services such as psychiatric evaluation and diagnosis, psychological evaluation, individual, group and family psychotherapy, behavior therapy, crisis intervention services, medication evaluation and management, and similar services.

(d) The treatment plan shall be reviewed and updated throughout the duration of treatment as follows:

(1) For individuals under an involuntary outpatient commitment, the treatment plan shall be reviewed and updated every 30 days by the mental health professional or advanced practice professional providing treatment services and the individual receiving services. The treatment plan update shall be reviewed and signed by the psychiatrist as part of the oversight of treatment services provided.

(2) For individuals voluntarily receiving treatment, the treatment plan shall be reviewed and updated at a

minimum of every 180 days by the mental health professional, mental health worker under the supervision of a mental health professional, certified registered nurse practitioner or physician assistant providing treatment services and the individual receiving services.

(3) The treatment plan update shall be signed and dated by the mental health professional, mental health worker under the supervision of a mental health professional, certified registered nurse practitioner or physician assistant providing treatment services.

(4) The mental health professional or mental health worker shall request the individual to sign and date the treatment plan update. In the event the individual does not sign the treatment plan update, the mental health professional or mental health worker shall document the request in the record.

(e) All treatment services shall be provided in accordance with the identified goals in the treatment plan and updates.

(f) The treatment plan and updates shall be kept in the individual record.

(g) The treatment plan shall be reviewed on an annual basis by the psychiatrist or advanced practice professional throughout the course of treatment from the psychiatric outpatient clinic and documented in the individual record.

§ 5200.32. Treatment policies and procedures.

Each psychiatric outpatient clinic shall have on file a written plan specifying the clinical policy and procedures of the facility and shall provide services in accordance with them. This plan must provide for the following:

(1) Intake and assessment policy and procedures.

(2) Admission policies including time frames for the following:

(i) Referrals from crisis intervention or emergency services.

(ii) Referrals from inpatient units.

(iii) Referrals for medication management services.

(iv) Other referrals.

(3) The services to be provided and the scope of these services.

(4) Discharge policies providing for continuity of care for individuals discharged from the program.

(5) Complaint policies and procedures.

(6) Statement of rights in accordance with 55 Pa. Code §§ 5100.51—5100.56 (relating to patient rights).

§ 5200.33. Discharge.

(a) A psychiatric outpatient clinic shall complete a discharge summary for each individual at least 45 days before discharge from services that includes the following:

(1) Summary of services provided and outcomes.

(2) Reason for discharge.

(3) Referral or recommendation for other services if needed.

(b) The psychiatric outpatient clinic shall provide the following information to individuals at discharge:

(1) Contact information for the local crisis intervention service.

(2) Contact information for any referrals.

MISCELLANEOUS PROVISIONS

§ 5200.41. Records.

(a) Under section 602 of the Mental Health and Intellectual Disability Act of 1966 (50 P.S. § 4602), and in accordance with recognized and acceptable principles of

recordkeeping, the facility shall maintain a record for each individual receiving services from a psychiatric outpatient clinic. The record must include the following:

- (1) Identifying information.
- (2) Referral source.
- (3) Assessment including presenting problems.
- (4) Appropriately signed consent forms.
- (5) Medical, social and developmental history.
- (6) Diagnosis and evaluation.
- (7) Treatment plan and updates.
- (8) Treatment progress notes for each contact.
- (9) Medication orders.
- (10) Discharge summary.
- (11) Referrals to other agencies, when indicated.
- (12) A written recommendation from a LPHA acting within the practitioner's scope of practice for any MMHT services provided.

(b) Records shall also be maintained as follows:

- (1) Legible and permanent.
- (2) Reviewed twice a year as to quality by the director, clinical supervisor or psychiatrist.
- (3) Maintained in a uniform manner so that information can be provided in a prompt, efficient, accurate manner and so that data is accessible for administrative and professional purposes.
- (4) Signed and dated by the staff member writing in the record.
- (c) All protected individual records, written and electronic, shall be secured in accordance with all applicable Federal and State privacy and confidentiality statutes and regulations.

§ 5200.42. Medications.

(a) If medication is prescribed or dispensed by the psychiatric outpatient clinic, the requirements of all applicable Federal and State drug statutes and regulations shall be met. In addition, all of the following apply:

- (1) Prescriptions shall be written only by a licensed psychiatrist, physician, certified registered nurse practitioner or physician assistant within the practitioner's scope of practice.
- (2) The term "written" includes prescriptions that are handwritten or recorded and transmitted by electronic means.
- (3) Written prescriptions transmitted by electronic means must be electronically encrypted or transmitted by other technological means designed to protect and prevent access, alteration, manipulation or use by an unauthorized person.
- (4) A record of any medication prescribed shall be documented in the individual record.

(b) Written policies and procedures providing for the safe dispensing and administration of medication by the medical and nursing staff shall be in writing and on file. The policy must include all of the following:

- (1) Medications shall be dispensed only on an order of a licensed psychiatrist, physician, certified registered nurse practitioner or physician assistant within the practitioner's scope of practice.
- (2) All medication shall be kept in a secure place.
- (3) Each dose of medication administered by the psychiatric outpatient clinic shall be properly recorded in the individual's record.

§ 5200.43. Fee schedule.

Each psychiatric outpatient clinic shall maintain a schedule of uniform basic charges for services which are available to all individuals receiving services.

§ 5200.44. Quality assurance program.

All psychiatric outpatient clinics shall have a utilization review and clinical audit process designed to ensure that the most appropriate treatment is delivered to the individual receiving services and that treatment is indicated. Psychiatric outpatient clinics that provide MMHT services shall include MMHT services in the Quality Assurance plan. The Quality Assurance plan shall include the following:

- (1) Process for the annual review of the quality, timeliness and appropriateness of the services provided, including feedback on satisfaction with services from individuals receiving services.
- (2) Identification of the type of review and the methodology for the review.
- (3) Documentation of the findings of the annual review.
- (4) Utilization of the annual review findings to improve psychiatric outpatient clinic services.

§ 5200.45. Physical facility.

(a) Adequate space, equipment and supplies shall be provided in order that the outpatient services can be provided effectively and efficiently. Functional surroundings shall be readily accessible to the individual and community served.

(b) All space and equipment shall be well maintained and must meet applicable Federal, State and local requirements for safety, fire, accessibility and health.

(c) A waiting room which is clean, comfortable and sensitive to the culture of the population served shall be provided.

(d) There shall be office space for the clinical staff suitably equipped with chairs, desks, tables and other necessary equipment.

(e) There shall be an adequate number of suitably equipped conference rooms to provide for staff conferences and therapy.

(f) There shall be adequate provisions for privacy within the psychiatric outpatient clinic.

(g) A psychiatric outpatient clinic is defined by its staff and organizational structure rather than by a specific building or facility. It may operate at more than one site if the respective sites meet all physical facility standards and the sites operate as a portion of the psychiatric outpatient clinic. The staffing pattern at each site shall be based on the ratio of total individuals served at that site to the total individuals served in the psychiatric outpatient clinic as a whole. The Department will issue a single certificate of compliance to the parent organization which will list all operational sites.

§ 5200.46. Notice of nondiscrimination.

Programs may not discriminate against staff or individuals receiving services on the basis of race, color, creed, disability, religious affiliation, ancestry, gender, gender identity or expression, sexual orientation, national origin or age, and shall comply with all applicable State and Federal statutes and regulations.

§ 5200.48. Waiver of standards.

In instances where the development of specialty psychiatric outpatient clinic services is severely limited by these standards, such as rural clinics or specialty clinics, a waiver may be granted. Waivers may be applied only in

areas where the need for these services and the attempts to meet the standards are adequately documented. Waivers are to be considered only in exceptional circumstances and are subject to approval by the Department.

MOBILE MENTAL HEALTH TREATMENT

§ 5200.51. Provider service description.

(a) Prior to the delivery of MMHT services, a psychiatric outpatient clinic shall submit to the Department for approval a MMHT service description that includes the information required under subsection (b). A psychiatric outpatient clinic shall submit a revised service description to the Department if there are changes to the information required under subsection (b).

(b) A service description must include all of the following:

(1) The population to be served, including all of the following:

- (i) Expected number of individuals to be served.
- (ii) The age ranges of the individuals to be served.
- (iii) The presenting problems and other characteristics supporting the need for MMHT services.
- (iv) The location of the provision of the services, whether in the home or community or both.

(v) The goals, objectives and expected outcomes of the MMHT services.

(2) Staffing pattern, including all of the following:

(i) Number of mental health professionals, licensed clinical psychologists, and psychiatrists providing MMHT services.

(ii) The qualifications of a staff person providing a MMHT service.

(iii) The specific clinical services to be provided by each staff.

(3) The policies and procedures for all of the following:

- (i) The supervision of MMHT services.
- (ii) Staff support in the provision of MMHT services.
- (iii) Coordination of care with physical health services.
- (c) A psychiatric outpatient clinic shall provide MMHT services only as set forth in its approved service description.

§ 5200.52. Treatment planning.

(a) Treatment planning shall be completed in accordance with § 5200.31 (relating to treatment planning) and shall include all of the following:

- (1) Services to be provided.
- (2) Treatment goals.
- (3) Duration of service.
- (4) Supports and interventions necessary to alleviate barriers to receiving services at a psychiatric outpatient clinic.
- (5) Identification of the professional providing each service.
- (6) Location of service provision.

(b) A MMHT services provider shall complete an assessment as required by § 5200.31(a) prior to developing the treatment plan. In addition, the following shall apply:

(1) The assessment shall include documentation of the disabling effects of a mental or physical illness that impedes or precludes the individual's ability to participate in services at the psychiatric outpatient clinic.

(2) The assessment shall be completed by a psychiatrist, mental health professional, or an advanced practice professional trained and qualified to provide services at a psychiatric outpatient clinic.

(c) Treatment plans shall be updated at a minimum every 180 days.

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