

ARKANSAS

This summary of state regulations and policy represents only a snapshot at a point in time, is not comprehensive, and should not be taken to constitute legal advice or guidance. State Medicaid requirements are included at the end of this summary.

Types of Facilities

Mental Health (MH) and Substance Use Disorder (SUD): Arkansas regulates:

- An Acute Crisis Unit (ACU) provides non-hospital emergency services for MH and SUD crisis stabilization in free-standing facilities of 16 beds or less.
- Therapeutic Communities (TCs) are highly structured residential environments or continuums of care in which “the primary goals are the treatment of behavioral health needs and the fostering of personal growth leading to personal accountability.” TCs employ community-imposed consequences and earned privileges. There are two levels of care, with Level 1 being the highest level of care and Level 2 a lower level.

Substance Use Disorder (SUD): Arkansas regulates:

- A Residential Program is a “non-medical, live-in facility offering treatment and rehabilitation services to facilitate the alcohol and/or other drug abuser’s ability to live and work in the community.”
- Detoxification services, which are funded by the Arkansas Office of Alcohol and Drug Abuse Prevention and provide detoxification services to residents.

Unregulated Facilities: It is possible that there are other non-ACU or non-TC MH residential treatment facilities that are not regulated.

Approach

The Arkansas Department of Human Services (DHS) regulates ACUs and TCs as Behavioral Health Agencies (BHAs). The DHS Office of Alcohol and Drug Abuse Prevention (OADAP) regulates all adult residential SUD treatment facilities.

Processes of Licensure or Certification and Accreditation

Mental Health (MH) and Substance Use Disorder (SUD): Certification by the DHS as a BHA is required, after which certification as an ACU or TC must be obtained, unless an ACU is operated by the DHS.

- Accreditation is required for certification. Accreditation may be by one of the following: Commission on Accreditation of Rehabilitation Facilities (CARF), Joint Commission on the Accreditation of Health Care Organizations (TJC), or the Council on Accreditation (COA).
- A site survey is required for certification.
- The state does not require a Certificate of Need.
- Licensure duration is not defined.

Substance Use Disorder (SUD): All residential SUD treatment facilities, excepting exempt federal facilities, require licensure by the DHS.

- Accreditation is not required but facilities accredited by CARF, TJC, or COA automatically receive provided they also meet specific licensure requirements.
- Formal on-site reviews are conducted.
- The state does not require a Certificate of Need.
- Licensure duration for the initial license is one year. Renewal licenses are valid for up to three years.

Cause-Based Monitoring

Mental Health (MH) and Substance Use Disorder (SUD): The DHS may contact applicants and providers at any time and may make unannounced visits to applicants and providers. Applicants and providers must provide the DHS prompt direct access documents and to staff and contractors. Additionally, as a condition of BHA certification, "Providers must furnish annual reports to DHS before July 1 of each year that the provider has been in operation for the preceding twelve (12) months."

Substance Use Disorder (SUD): The OADAP will conduct at least 2 announced or unannounced compliance reviews.

Access Requirements

Mental Health (MH) and Substance Use Disorder (SUD): Wait-time requirements were not found specific to adult residential MH treatment.

Substance Use Disorder (SUD): Wait-time requirements were not found specific to adult residential SUD treatment.

Staffing

Mental Health (MH) and Substance Use Disorder (SUD): As a BHA, staffing must be sufficient to establish and implement services for each client, and must include a CEO, a Clinical Director, Mental Health Professionals, Qualified Behavioral Health Providers including certified peer support specialists, a Corporate Compliance Officer, a Medical Director who is either a psychiatrist or supported by a psychiatrist on staff, a Privacy Officer, a Quality Control Manager, a Grievance Officer, a Medical Records Librarian, and a Licensed Psychologist, all of which must meet specific requirements.

- All ACUs must maintain staff development and training plans that account for orientation procedures; in-service training and education programs; availability of professional reference materials; and mechanisms for insuring outside continuing educational opportunities for staff members. Staff that provide clinical services are required to complete annual training that covers, among other things, client's rights and the constraints of the Mental Health Client's Bill of Rights; cultural competence; co-occurring disorder competency and treatment principles; and trauma informed and age and developmental specific trainings. ACUs must have a co-occurring disorder capable multidisciplinary team of medical, nursing, social services, clinical, administrative, and other staff adequate to meet the clinical needs of the individuals served.
- TCs must develop written personnel policies and procedures which “promote the objectives of the program and provide for qualified personnel during all hours of operation to support the functions of the center and provide quality care.” The TC must have a written plan for staff development and training similar to that required of an ACU and staff are required to attend annual training similar to the ACU trainings. Both Level 1 and 2 TCs have required staffing ratios. Level 2 TCs must have the “ability for residents to be seen by appropriate caregivers when necessary 24 hours a day.

Substance Use Disorder (SUD): All SUD programs, including residential, are subject to staffing ratios. Clients have a right to an adequate number of qualified staff. A program cannot employ any person currently receiving SUD treatment services and former clients may not provide direct treatment services for 12 months after their discharge from treatment. Personnel must

meet all local, state, or federal legal requirements for their position. All non-certified or non-licensed staff must meet specific requirements. The program must establish an appropriate orientation and ongoing staff development plan for all employees and volunteers.

- Detoxification programs have the following additional requirements for staff: While a client is in observation detoxification, MDs, registered or licensed practical nurses, or Regional Detoxification Specialists (RDS), must be present and assigned to monitor the client on a 24 hour basis; Only an RDS, MD, registered or licensed nurse are authorized to document progress notes, vital signs, fluid/food intake, withdrawal risk assessments and stabilization plans. Specific certifications are required for an RDS. All staff assigned to monitor detoxification clients must know the signs and symptoms of withdrawal, the implication of those signs and symptoms; and emergency procedures, as defined in the facility policy and procedure manual.
- Specialized Women's Services programs must have at least one staff person who is certified in child and infant CPR.

Placement

Mental Health (MH) and Substance Use Disorder (SUD): All BHAs must establish and maintain procedures, competence, and capacity for assessment. All ACUs and TCs must assess each individual to determine appropriateness of admission. Initial assessments by an MHP must be completed on all clients voluntary or involuntary prior to admission and include screening for co-occurring disorders and trauma. There must also be an integrated MH and SUD psychosocial evaluation.

Substance Use Disorder (SUD):

- Residential SUD programs include care provided to a SUD client who is not ill enough to need admission to medical detoxification or observation detoxification, but who has need of more intensive care in a therapeutic setting with supportive living arrangements. All residential SUD programs must conduct a pre-admission screening to determine a client's eligibility and appropriateness. Components are specified. Additionally, an assessment to determine severity and environment placement to include a completed Addiction Severity Index for adults is to be completed within 72 hours of admission. When applicable, results of other tests or standardized assessments, including the ASAM patient placement criteria or other nationally recognized placement tool must also be included.
- Detoxification programs must perform a withdrawal risk assessment upon admission and file it in the client record within four hours. Only qualified staff members may perform the withdrawal risk assessment, which includes specific components.

Treatment and Discharge Planning and Aftercare Services

Mental Health (MH) and Substance Use Disorder (SUD): Treatment planning in the form of progress notes updated daily are required, as well as discharge planning beginning at admission. An aftercare plan must be entered into each client's medical record upon discharge. Among other things, the aftercare plan must include recommendations for continued follow-up, including any co-occurring disorders or issues, and recommended interventions for each.

Substance Use Disorder (SUD): Treatment planning is required, and plans must be updated every seven days, unless clinically contraindicated. Discharge planning, beginning at admission, is required. An aftercare plan should be written one-week prior to target date of completion and must minimally contain: a summary of client needs not treated; established goal(s) that address the untreated needs; and the means by which the goals will be met.

- Detoxification programs also have treatment planning requirements, and the program must review and, if necessary, revise the detoxification plan (stabilization plan) every 24 hours or more often, should client need(s) change significantly.
- Specialized Women's Services programs, prior to discharge, are responsible for establishing an aftercare plan and will encourage the client to participate in support activities.

Treatment Services

Mental Health (MH) and Substance Use Disorder (SUD): ACUs and TCs must employ evidence-based practices.

- ACUs must provide, among other things: (1) medically-supervised SUD and MH screening, observation and evaluation; (2) initiation and medical supervision of rapid stabilization regimen as prescribed by a physician, including medically monitored detoxification where indicated; (3) medically-supervised and co-occurring disorder capable detoxification; (4) intensive care and intervention during acute periods of crisis stabilization; (5) motivational strategies to facilitate further treatment participation for MH and/or SUD needs; and (6) referral, linkage or placement, as indicated by client needs. Services must be co-occurring disorder capable and trauma informed.
- TCs must provide person centered, culturally competent, trauma informed and co-occurring capable services. Level 1 and Level 2 TCs each have separate requirements for number of hours of planned Counseling Level or Rehabilitative Level services per week, Physician Service encounters per month, and Professional Services per week.

Substance Use Disorder (SUD): All residential SUD programs must provide a minimum of 28 hours of structured treatment weekly (individual and group therapy); a minimum of 5 hours daily (Monday through Friday); and a minimum of 3 hours daily on Saturday and/or Sunday. In addition, residential service must include intake and case management and may include drug testing, medical care other than detoxification, and other appropriate services.

- Detoxification programs have additional requirements related to timing of taking vital signs.
- Specialized Women’s Services may be offered in a residential treatment program and address the specialized needs of the parent and include services for children. These services may be provided on the premises or through written service agreements with other providers. At a minimum, this includes case management, SUD treatment, childcare, transportation, medical treatment, housing, education/job skills training, parenting skills, aftercare, family education and support and house rules. Treatment must include intensive primary treatment and clients must participate in at least thirty (30) hours of therapeutic services per week, including substance abuse group counseling, education, parenting, family reunification, and child development services. Specific requirements also exist for, among others, job skills, parenting skills, services for children, and family education and support.

Patient Rights and Safety Standards

Mental Health (MH) and Substance Use Disorder (SUD): All BHAs must employ a Grievance Officer who “develops and implements the applicant’s/provider’s employee and client grievance procedures [and who] effectively communicates grievance procedures to staff, contractors, prospective clients, and clients.”

In addition to BHA requirements, mechanical restraints may not be used with any client of an ACU or TC. There shall be written policies and procedures requiring documenting and reporting of critical incidents.

Substance Use Disorder (SUD): All SUD treatment programs must provide information of client rights at admission, including, among other things, the right: to the receipt of adequate and humane services, regardless of sources of financial support; to an adequate number of competent, qualified and experienced professional clinical staff; to be informed of treatment alternatives or alternative modalities; and to communicate with family and significant others outside the program. There must also be a written grievance policy which “states that there is a reasonable, specific deadline for completing the grievance process.” No specific requirements for reporting grievances to the state were located. No regulations regarding restraint or seclusion were located specific to SUD residential treatment.

Quality Assurance or Improvement

Mental Health (MH) and Substance Use Disorder (SUD): All BHAs must “establish, maintain, and document a quality improvement program, to include: (1) Evidence based practices; (2) Use of agency wide outcomes measures to improve both client care and clinical practice that are approved by the agency’s national accrediting organization.” Providers also must conduct quality assurance meetings at least quarterly that fulfill regulatory requirements.

In addition to the BHA requirements, TCs and ACUs must “have an ongoing performance improvement program designed to objectively and systematically monitor, evaluate and improve the quality of client care...There shall be an annual written plan for performance improvement activities.” The plan shall include, among other things, “Outcomes management processes specific to each program...A quarterly record...Clinical privileging...Fiscal management and planning...and a review of critical incident reports and client grievances or complaints.”

Substance Use Disorder (SUD): The governing body must develop and approve a program plan including a plan for implementation of objectives. The governing body must evaluate the plan annually, including assessment of progress toward attainment of goals, documentation of other achievements, and assessment of the effective utilization of staff and program resources, among other things.

Governance

Mental Health (MH) and Substance Use Disorder (SUD): Both ACUs and TCs must have a governing body that oversees policies and procedures, staffing, and other matters.

Substance Use Disorder (SUD): The organization governing body or legal owner has certain responsibilities under state licensing regulations, including but not limited to preparation of an annual strategic plan, compliance with all applicable legal requirements, supervision of staff, accountability for policies and procedures, development of a program plan, and fiscal management.

Special Populations

Mental Health (MH) and Substance Use Disorder (SUD):

- ACUs and TCs are required to have co-occurring disorder capability for any clients that may present with a dual diagnosis.

Substance Use Disorder (SUD): Specialized Women’s Services may be offered in residential treatment.

Location of Regulatory and Licensing Requirements

Department of Human Services¹; Arkansas Department of Human Services, Division of Provider Services and Quality Assurance²; Therapeutic Communities Certification³; Acute Crisis Unit Certification⁴. Regulatory requirements reviewed June 14, 2019.

Other Information Sources

P. Gann, D. Motley-Bledsoe, D. Luckett (DHS); National Conference of State Legislatures CON Program Overview, <http://www.ncsl.org/research/health/con-certificate-of-need-state-laws.aspx>

¹ See <https://humanservices.arkansas.gov/images/uploads/dbhs/SA%20Licensure%20Standards%20-%20Revision.pdf>.

² See <http://170.94.37.152/REGS/016.23.17-002F-17114.pdf>.

³ See https://humanservices.arkansas.gov/images/uploads/dpsqa/DBHS_Therapeutic_Communities_Certification_-_FINAL.pdf.

⁴ See https://humanservices.arkansas.gov/images/uploads/dbhs/DBHS_Acute_Crisis_Unit_Certification_-_FINAL.docx.

ARKANSAS MEDICAID

This summary of state regulations and policy represents only a snapshot at a point in time, is not comprehensive, and should not be taken to constitute legal advice or guidance. State Medicaid requirements are included at the end of this summary.

Approach

The Arkansas Department of Human Services (DHS) oversees the state Medicaid program. Arkansas does not have a relevant Section 1115 waiver that affects reimbursement of residential services in Institutions for Mental Diseases (IMDs). It historically has relied to some extent on the in lieu of provision and on Disproportionate Share Hospital (DSH) payments to reimburse certain services in IMDs.

Types of Facilities

Mental Health (MH) or Substance Use Disorder (SUD): Arkansas Medicaid does not provide coverage for residential services in IMDs. Some limited residential treatment services, however, can be provided as outpatient behavioral health if providers are certified as a BHA. Services in ACUs are reimbursable.

Substance Use Disorder (SUD): Detoxification in SUD residential treatment facilities is reimbursable under the Medicaid fee for service program.

Processes of Medicaid Enrollment

Mental Health (MH) and Substance Use Disorder (SUD): All behavioral health providers must meet specific qualifications for their services and staff to be approved to receive reimbursement for services to Medicaid beneficiaries. They must first be certified as a BHA and then as an ACU or TC.

Substance Use Disorder (SUD): For Medicaid reimbursement, SUD detoxification services must be provided in a facility that is certified as such by the DHS.

Staffing

Mental Health (MH) and Substance Use Disorder (SUD): For ACUs, psychiatry and/or SUD services must be available on-site at all times as well as on-call psychiatry available 24 hours a

day. ACU providers may include: Independently Licensed Clinician--Master's/Doctoral; NonIndependently Licensed Clinicians--Master's/Doctoral; Advanced Practice Nurse; Physician; Registered Nurse; Qualified Behavioral Health Provider--Bachelors; and Qualified Behavioral Health Provider--Non-Degreed.

Substance Use Disorder (SUD): Detoxification providers may include the same categories as ACUs.

Placement

Mental Health (MH) and Substance Use Disorder (SUD): ACUs provide crisis treatment services to persons over the age of 18 who are experiencing a psychiatry and/or substance abuse-related crisis and may pose an escalated risk of harm to self or others.

Substance Use Disorder (SUD): Detoxification services in SUD residential treatment facilities are aimed at those who require stabilization and management of acute intoxication and withdrawal from alcohol or other drugs.

Treatment and Discharge Planning and Aftercare Services

Mental Health (MH) and Substance Use Disorder (SUD): The state Medicaid program does require a treatment plan.

Treatment Services

Mental Health (MH) and Substance Use Disorder (SUD): For ACUs, services include ongoing assessment and observation; crisis intervention; psychiatric, substance, and co-occurring treatment; and initiate referral mechanisms for independent assessment and care planning as needed.

Substance Use Disorder (SUD): SUD detoxification services may include evaluation, observation, medical monitoring, and addiction treatment.

Care Coordination

Mental Health (MH) and Substance Use Disorder (SUD): For ACUs, services include initiation of referral mechanisms for independent assessment and care planning as needed.

Quality Assurance or Improvement

Mental Health (MH) and Substance Use Disorder (SUD): Each BHA must establish and maintain a quality assurance committee that meets quarterly and examines the clinical records for completeness, adequacy and appropriateness of care, quality of care and efficient utilization of provider resources.

Special Populations

Mental Health (MH) and Substance Use Disorder (SUD): No evidence of Medicaid-based special population requirements for residential treatment facilities for adults was located.

Location of Medicaid Requirements

Arkansas Medical Assistance Services Administrative Rule # 016.06.04⁵; Outpatient BH Services⁶; State Plan⁷. Regulatory data collected December 2019.

Other Information Sources

Kaiser Family Foundation. State Options for Medicaid Coverage of Inpatient Behavioral Health Services. KFF: San Francisco. November 2019 <http://files.kff.org/attachment/Report-Brief-State-Options-for-Medicaid-Coverage-of-Inpatient-Behavioral-Health-Services>

This state summary is part of the report “**State Residential Treatment for Behavioral Health Conditions: Regulation and Policy**”. The full report and other state summaries are available at <https://aspe.hhs.gov/state-bh-residential-treatment>.

⁵ See https://www.ark.org/rules_and_regs/index.php/rules/search.

⁶ See https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fmedicaid.mmis.arkansas.gov%2FDownload%2Fprovider%2Fprovdocs%2FManuals%2FQBHS%2FQBHS_II.doc.

⁷ See <https://medicaid.mmis.arkansas.gov/Download/general/units/ORP/ARMedicaidSP.pdf>.