

## NORTH CAROLINA

*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):* North Carolina regulates Facility Based Crisis Centers for Individuals of All Disability Groups, which is “a residential facility which provides disability-specific care and treatment in a nonhospital setting for individuals in crisis who need short-term intensive evaluation, or treatment intervention or behavioral management to stabilize acute or crisis situations. This facility is designed as a time-limited alternative to hospitalization for an individual in crisis.” These facilities serve individuals who have MH or SUD needs.

*Substance Use Disorder (SUD):* North Carolina regulates:

- Nonhospital Medical Detoxification for Individuals who are Substance Abusers, a “residential facility which provides medical treatment and supportive services under the supervision of a physician. This facility is designed to withdraw an individual from alcohol or other drugs and to prepare him to enter a more extensive treatment and rehabilitation program.”
- Social Setting Detoxification for Substance Abuse, a “residential facility which provides social support and other non-medical services to individuals who are experiencing physical withdrawal from alcohol and other drugs. Individuals receiving this service need a structured residential setting but are not in need of immediate medical services; however, back-up physician services shall be available, if indicated. The facility is designed to assist individuals in the withdrawal process and to prepare them to enter a more extensive treatment and rehabilitation program.”
- Residential Recovery Programs for Individuals with Substance Abuse Disorders and their Children, a “professionally supervised residential facility which provides trained staff who work intensively with individuals with substance abuse disorders who provide or have the potential to provide primary care for their children.”
- Residential Treatment/Rehabilitation for Individuals with Substance Use Disorders, a “residential service which provides active treatment and a structured living environment for individuals with substance abuse disorders in a group setting.”

- Therapeutic Community, a “highly structured, supervised, 24-hour residential facility designed to treat the behavioral and emotional issues of individuals to promote self-sufficiency and a crime and drug-free lifestyle.”

*Unregulated Facilities:* There are no unregulated residential treatment facilities in North Carolina. We exclude Psychosocial Rehabilitation Facilities for Individuals with Severe and Persistent Mental Illness, Supervised Living, and Respite Services, because they do not incorporate clinical services within the scope of this summary.

## **Approach**

The North Carolina Division of Health Service Regulation (DHSR) regulates and licenses residential treatment providers in the state. The North Carolina Department of Health and Human Services (DHHS) contracts with publicly-funded behavioral health services and, according to state staff, may impose additional requirements by contract.

## **Processes of Licensure or Certification and Accreditation**

*Mental Health (MH) and Substance Use Disorder (SUD):* Licensure by the DHSR is required for operation of all facilities.

- According to state staff, accreditation is not required but a similar feature exists through Local Management Entities-Managed Care Organizations (LME-MCOs), which are under contract with the DHHS to manage publicly-funded behavioral health services within a specific geographic catchment area. The LME-MCOs accept licensure and inspection by DHSR as indicators of statutory and rule compliance. LME-MCOs contract with providers for services, perform post payment reviews, and monitor unlicensed behavioral health services.
- An inspection is required for initial licensure and renewal. The focus of the on-site inspections is compliance with all rules and statutes.
- According to state staff, a Certificate of Need is required only for Residential Treatment/Rehabilitation for Individuals with Substance Abuse Disorder.
- An initial license is valid for a period not to exceed 15 months from the date on which the license is issued. Each license must be renewed annually thereafter and expires at the end of the calendar year.

## **Cause-Based Monitoring**

*Mental Health (MH) and Substance Use Disorder (SUD):* Licenses may be denied, amended or revoked. Inspections may be conducted without advance notice.

## **Access Requirements**

*Mental Health (MH) and Substance Use Disorder (SUD):* Wait-time requirements were not found. Facilities that provide activities for clients shall assure that when clients who have a physical handicap are transported, the vehicle shall be equipped with secure adaptive equipment.

## **Staffing**

*Mental Health (MH) and Substance Use Disorder (SUD):* All facilities shall have a written job description for the director and each staff position which, among other things, includes the minimum level of education, competency, work experience and other qualifications for the position, and specifies the duties and responsibilities of the position. Minimum standards are established for the director, each staff member or any other person who provides care or services to clients on behalf of the facility.

Staff of a facility or a service shall be currently licensed, registered or certified in accordance with applicable state laws for the services provided. Employee training programs shall be provided, including specified minimum subjects. At least one staff member with specific training shall be available in the facility at all times when a client is present.

- For Facility Based Crisis Service for Individuals of all Disability Groups, each facility shall maintain staff to client ratios that ensure the health and safety of clients served in the facility. Staff with training and experience in the provision of care to the needs of clients shall be present at all times when clients are in the facility. The facility shall have the capacity to bring additional staff on site to provide more intensive supervision, treatment, or management in response to the needs of individual clients. The treatment of each client shall be under the supervision of a physician, and a physician shall be on call on a 24-hour per day basis. Each direct care staff member shall have access at all times to qualified professionals who are qualified in the disability area(s) of the clients with whom the staff is working. Each direct care staff member shall be trained and have basic knowledge about mental illnesses and psychotropic medications and their side effects; mental retardation and other developmental disabilities and accompanying behaviors; the nature of addiction and recovery and the withdrawal syndrome; and treatment methodologies for adults and children in crisis.

*Substance Use Disorder (SUD):* For the different categories of SUD residential treatment facilities, staffing ratios are established, as are requirements for direct care staff, clinical and medical staff qualifications, and staff training, all of which vary by facility type, with specific additional training, including but not limited to crisis management, required at facilities where children are resident.

## **Placement**

*Mental Health (MH) and Substance Use Disorder (SUD):* An assessment must be completed for a client, according to governing body policy, prior to the delivery of services, and shall include, but not be limited to: (1) the client's presenting problem; (2) the client's needs and strengths; (3) a provisional or admitting diagnosis with an established diagnosis determined within 30 days of admission, except that a client admitted to a detoxification or other 24-hour medical program shall have an established diagnosis upon admission; (4) a pertinent social, family, and medical history; and (5) evaluations or assessments, such as psychiatric, substance abuse, medical, and vocational, as appropriate to the client's needs. Additionally, the governing body responsible for each facility or service shall develop and implement written policies for screenings, which shall include: (A) an assessment of the individual's presenting problem or need; (B) an assessment of whether or not the facility can provide services to address the individual's needs; and (C) the disposition, including referrals and recommendations.

*Substance Use Disorder (SUD):*

- For Residential Treatment/Rehabilitation for Individuals with Substance Use Disorders, individuals must be detoxified before entering the facility.
- For Residential Recovery Programs for Individuals with Substance Abuse Disorders and their Children, and for a Therapeutic Community, admission to the facility is a joint decision of the designated qualified professional, the provider of residential care, and the individual. For the former, the individual will have the opportunity for at least one pre-admission visit to the facility except for an emergency admission.

## **Treatment and Discharge Planning and Aftercare Services**

*Mental Health (MH) and Substance Use Disorder (SUD):* Treatment planning is required, and the plan shall be developed based on the assessment, and in partnership with the client or legally responsible person or both, within 30 days of admission for clients who are expected to receive services beyond 30 days. The plan must be reviewed at least annually.

- For Facility Based Crisis Centers for Individuals of All Disability Groups, each facility shall complete a discharge plan for each client that summarizes the reason for admission,

intervention provided, recommendations for follow-up, and referral to an outpatient or day program or residential treatment/rehabilitation facility.

*Substance Use Disorder (SUD):*

- For Nonhospital Medical Detoxification for Individuals who are Substance Abusers, for Social Setting Detoxification for Substance Abuse, and for Residential Treatment/Rehabilitation for Individuals with Substance Use Disorders, before discharging the client, the facility shall complete a discharge plan for each client and refer each client who has completed detoxification or treatment to an outpatient or residential treatment/rehabilitation facility.
- For Residential Recovery Programs for Individuals with Substance Abuse Disorders and their Children, programs shall include, for each parent in the program, aftercare and follow-up. Before discharging the client, the facility shall complete a discharge plan for each client and refer each client who has completed services to the level of treatment or rehabilitation in accordance with the client needs.

## **Treatment Services**

*Mental Health (MH) and Substance Use Disorder (SUD):* For Facility Based Crisis Centers for Individuals of All Disability Groups, each facility shall have protocols and procedures for assessment, treatment, monitoring, and discharge planning for adults and for children of each disability group served in the facility. Protocols and procedures shall be approved by the LME-MCO's medical director or the medical director's designee, as well as the director of the appropriate disability unit of the area program.

*Substance Use Disorder (SUD):*

- For Nonhospital Medical Detoxification for Individuals who are Substance Abusers, and for Social Setting Detoxification for Substance Abuse, each facility shall have a written policy that requires: (1) procedures for monitoring each client's general condition and vital signs during at least the first 72 hours of the detoxification process; and (2) procedures for monitoring and recording each client's pulse rate, blood pressure and temperature as required in the regulations for each facility category.
- For Residential Treatment/Rehabilitation for Individuals with Substance Use Disorders, services include individual, group and family counseling and education and there are additional requirements that each facility provide or have access to certain other services.
- Residential Recovery Programs for Individuals with Substance Abuse Disorders and their Children shall include, for each parent in the program, assessment/referral, individual and

group therapy, therapeutic parenting skills, basic independent living skills, educational groups, child supervision, aftercare, follow-up and access to preventive and primary health care. Goals for parent-child interaction shall be established and progress towards meeting these goals shall be documented in the parent's service record. The facility may utilize services from another facility providing treatment, support or medical services. Services shall be designed to provide a safe and healthy environment for clients and their children. Each facility shall assist the individual with the development of independent living skills in preparation for community based living. Each individual and child admitted to a facility shall receive services as appropriate to his or her needs from a qualified professional who has responsibility for the client's treatment program. Each individual and child shall receive age-appropriate, therapeutic professional services. An appropriate education program for a child is specified in the regulations. Each facility shall ensure the availability of specified emergency medical services.

- A Therapeutic Community shall emphasize self-help, abstinence from drugs and alcohol, personal growth, peer support, and may serve as an alternative to incarceration. Services shall be designed to create the environment of an extended family in which individuals develop self-esteem, construct a productive lifestyle through peer support and actual experience, leading to a successful re-entry into the larger community. The facility shall provide or ensure access to a variety of intensive therapy and program milieu approaches designed to confront and modify the client's anti-social and dysfunctional behavior. The goal shall be to assist the client in learning socially acceptable skills for coping with responsibilities and relationships, and to maintain a lifestyle which is substance abuse free. Consideration shall be given to meeting client needs in social, medical, psychological, vocational and educational areas. If children are residing in a Therapeutic Community, the facility shall also meet the rules for Therapeutic Homes for Individuals with Substance Abuse Disorders and Their Children.

## **Patient Rights and Safety Standards**

*Mental Health (MH) and Substance Use Disorder (SUD):* The governing body must develop and implement written policies for a client grievance policy, including procedures for review and disposition of client grievances. Specific requirements exist for critical incident reporting, including cases of client death within seven days of use of seclusion or restraint.

- For Therapeutic Community facilities, since the facility can operate as an alternative to incarceration, random searches shall be conducted of an individual's belongings and bedroom; and privileges of the resident shall be determined as responsibility levels increase.

## **Quality Assurance or Improvement**

*Mental Health (MH) and Substance Use Disorder (SUD):* The governing body responsible for each facility or service shall develop and implement written policies for quality assurance and quality improvement activities, including: (A) composition and activities of a quality assurance and quality improvement committee; (B) written quality assurance and quality improvement plan; (C) methods for monitoring and evaluating the quality and appropriateness of client care, including delineation of client outcomes and utilization of services; (D) professional or clinical supervision, including a requirement that staff who are not qualified professionals and provide direct client services shall be supervised by a qualified professional in that area of service; (E) strategies for improving client care; (F) review of staff qualifications and a determination made to grant treatment/habilitation privileges; (G) review of all fatalities of active clients who were being served in area-operated or contracted residential programs at the time of death; and (H) adoption of standards that assure operational and programmatic performance meeting applicable standards of practice.

The LME-MCO shall develop and implement written policies governing local monitoring of Category A and B providers. The written policies shall address the provider's quality improvement activities and trends in improvement.

## **Governance**

*Mental Health (MH) and Substance Use Disorder (SUD):* All facilities are subject to a governing body with authority over such things as quality improvement and policy and protocol development.

## **Special Populations**

*Substance Use Disorder (SUD):* For Residential Recovery Programs for Individuals with Substance Abuse Disorders and their Children, adequate training to support the therapeutic process shall be provided to all residential staff in the following areas within 60 days of employment: (1) therapeutic parenting skills; (2) dynamics and needs of emotionally disturbed and substance abusing individuals and their children; (3) pregnancy, delivery and well child care; and (4) infant feeding, including breast feeding.

## Location of Regulatory and Licensing Requirements

Division of Health Service Regulation (DHSR)<sup>1</sup>; NC DHHS State-Funded MH/DD/SA Service Definitions July 1, 2017<sup>2</sup>; NC DHHS State-Funded Enhanced MH and SA Services April 1, 2017<sup>3</sup>; NC Division of Health Service Regulation website<sup>4</sup>. Regulatory data collected September 17, 2019.

## Other Information Sources

R. Rader, M. Elliott (DMHDDSAS); National Conference of State Legislatures CON Program Overview, <http://www.ncsl.org/research/health/con-certificate-of-need-state-laws.aspx>

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<sup>1</sup> See <http://reports.oah.state.nc.us/ncac/title%2010a%20-%20health%20and%20human%20services/chapter%2027%20-%20mental%20health%2C%20community%20facilities%20and%20services/subchapter%20g/subchapter%20g%20rules.html>.

<sup>2</sup> See <https://files.nc.gov/ncdhhs/State-Funded%20MHDDSAS%20Service%20Definitions%202003-2017%20effective%207-1-17.pdf>.

<sup>3</sup> See <https://files.nc.gov/ncdhhs/State-Funded%20Enhanced%20MH%20SA%20Services%204-1-17-final%20for%20posting.pdf>.

<sup>4</sup> See <https://info.ncdhhs.gov/dhsr/>.



# NORTH CAROLINA MEDICAID

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## Approach

The North Carolina Department of Health and Human Services (DHHS) oversees the state Medicaid program. North Carolina also has a Section 1115 waiver permitting Medicaid expenditures for otherwise covered services furnished to otherwise eligible individuals who are primarily receiving treatment and withdrawal management services for substance use disorder (SUD) who are short-term residents in facilities that meet the definition of an institution for mental diseases (IMD), including residential treatment. The state has suspended managed care implementation and is not relying on the in lieu of provision for Medicaid coverage of IMD services but has historically relied on Disproportionate Share Hospital (DSH) payments.

## Types of Facilities

*Mental Health (MH):* Researchers found no other evidence of Medicaid reimbursement for adult residential MH treatment services.

*Substance Use Disorder (SUD):* The North Carolina Section 1115 waiver permits reimbursements for the following residential settings, some of which were previously covered by the state Medicaid program for those under age 21 years:

- Level 3.1 Clinically managed low-intensity residential treatment services (also called substance abuse halfway-house services)
- Level 3.2-WM Clinically managed residential withdrawal
- Level 3.3. Clinically Managed Population-Specific High Intensity Residential Services
- Level 3.5 Clinically managed high-intensity residential services (also called substance abuse non-medical community residential treatment) (pre-waiver, only covered for pregnant and parenting women in non-IMDs)
- Level 3.7 Medically monitored intensive inpatient services (substance abuse medically monitored community residential treatment)

- Level 3.7-WM Medically monitored inpatient withdrawal management (nonhospital medical detoxification)

Medication-assisted treatment also is to be available to those in IMDs.

## **Processes of Medicaid Enrollment**

*Mental Health (MH) and Substance Use Disorder (SUD):* To enroll as a Medicaid provider in North Carolina, a provider must, among other things, submit an application, undergo trainings, and make certain attestations. A provider enrolled in the Medicaid program must submit to the department's recredentialing process every five years. Enrollment may be revoked, and other sanctions applied. Maintenance of appropriate licensure is required.

## **Staffing**

*Substance Use Disorder (SUD):* Pursuant to the Section 1115 waiver, the state must establish residential treatment provider qualifications in licensure, policy or provider manuals, managed care contracts or credentialing, or other requirements or guidance that meet program standards in the ASAM Criteria or other nationally recognized, SUD-specific program standards regarding credentials of staff for residential treatment settings. The state must assess the availability of providers in the key levels of care throughout the state, or in the regions of the state participating under this demonstration, including those that offer MAT.

## **Placement**

*Substance Use Disorder (SUD):* Pursuant to the Section 1115 waiver, the state must establish a requirement that providers assess treatment needs based on SUD-specific, multidimensional assessment tools, such as the American Society of Addiction Medicine (ASAM) Criteria or other assessment and placement tools that reflect evidence-based clinical treatment guidelines. The state also must establish a utilization management approach such that beneficiaries have access to SUD services at the appropriate level of care and that the interventions are appropriate for the diagnosis and level of care, including an independent process for reviewing placement in residential treatment settings.

## **Treatment and Discharge Planning and Aftercare Services**

*Substance Use Disorder (SUD):* According to the waiver implementation plan, the then-current Medicaid standards included a requirement of person-centered planning, excepting detoxification services, for which a plan of care, service plan or treatment plan was required.

Review at least annually was required. Upon waiver implementation, person-centered planning was to become standard.

## **Treatment Services**

*Substance Use Disorder (SUD):* Under the Section 1115 waiver, beneficiaries will have access to high quality, evidence-based OUD and other SUD treatment services ranging from medically supervised withdrawal management to on-going chronic care for these conditions in cost-effective settings while also improving care coordination and care for comorbid physical and mental health conditions. In addition to current licensing requirements (see companion summary for detailed information on service requirements for licensure of residential substance use disorder treatment), pursuant to the Section 1115 waiver, the state must establish residential treatment provider qualifications in licensure, policy or provider manuals, managed care contracts or credentialing, or other requirements or guidance that meet program standards in the ASAM Criteria or other nationally recognized, SUD-specific program standards regarding in particular the types of services and hours of clinical care for residential treatment settings. The state must establish a requirement that residential treatment providers offer MAT on-site or facilitate access to MAT off-site.

## **Care Coordination**

*Substance Use Disorder (SUD):* Under the Section 1115 waiver, beneficiaries will have improved care coordination and care for comorbid physical and mental health conditions. The state must ensure establishment and implementation of policies to ensure residential facilities link beneficiaries with community-based services and supports following stays in these facilities.

## **Quality Assurance or Improvement**

*Substance Use Disorder (SUD):* Pursuant to the Section 1115 waiver, the state must establish a provider review process to ensure that residential treatment providers deliver care consistent with the specifications in the ASAM Criteria or other nationally recognized SUD program standards based on evidence-based clinical treatment guidelines for types of services, hours of clinical care, and credentials of staff for residential treatment settings.

## **Special Populations**

*Substance Use Disorder (SUD):* No Medicaid requirements were located other than the requirement in the Section 1115 waiver that care for comorbid physical and mental health conditions be improved by the demonstration.

## Location of Medicaid Requirements

NC Medicaid Statute<sup>5</sup>; NC Medicaid Policy re Covered Services<sup>6</sup>; North Carolina Section 1115 waiver<sup>7</sup>. Regulatory data collected January 2020.

## 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>.

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<sup>5</sup> See <https://www.ncleg.gov/Laws/GeneralStatuteSections/Chapter108C>.

<sup>6</sup> See <https://policies.ncdhhs.gov/divisional/health-benefits-nc-medicaid/adult-medicaid/policies-manuals/ma-2905-medicaid-covered-services>.

<sup>7</sup> See <https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/nc/nc-medicaid-reform-ca.pdf>.