

WEST VIRGINIA

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Types of Facilities

Mental Health (MH) and Substance Use Disorder (SUD): West Virginia regulates Behavioral Health Centers (BHCs), which “perform direct services provided as an inpatient, residential or outpatient service, to an individual with mental health, addictive, behavioral, or adaptive challenges that is intended to improve or maintain functioning in the community. The service is designed to provide treatment, habilitation, or rehabilitation.” No other regulated MH or SUD residential treatment facility types were identified.

Unregulated Facilities: No unregulated residential treatment facilities were identified.

Approach

Mental Health (MH) and Substance Use Disorder (SUD): The West Virginia Department of Health and Human Resources (DHHR) regulates all residential BHCs, regardless of funding source.

Processes of Licensure or Certification and Accreditation

Mental Health (MH) and Substance Use Disorder (SUD): BHCs must apply for licensure by the DHHR in order to operate in the state.

- An accreditation requirement was not identified for BHCs.
- A facility inspection is required for licensure and renewal.
- A Certificate of Need is not required for BHCs.
- Licensure is applied for every two years, and the application focuses on adherence to the provisions of the state behavioral health regulations.

Cause-Based Monitoring

Mental Health (MH) and Substance Use Disorder (SUD): The DHHR performs renewal inspections for BHCs and may conduct investigations and inspections based on complaints received. The DHHR also may require a plan of correction should the DOH become aware of deficiencies.

Access Requirements

Mental Health (MH) and Substance Use Disorder (SUD): Wait-time requirements were not found.

Staffing

Mental Health (MH) and Substance Use Disorder (SUD): The BHC must retain qualified individuals to deliver the services to which it commits via consumer treatment plans based on the consumer's functional level and physical disability. The provider shall have a system of staff supervision that is tailored to the provider's model of service delivery and uses individual or group supervision, or both, on a regularly scheduled basis. The provider shall identify an individual responsible for overall administration of the program for each site. This individual shall ensure that decisions related to care of the consumer are based on the treatment plan of the consumer. The provider shall develop a process that ensures appropriate supervision of direct service staff. Each staff person on duty shall have access to a supervisory staff person by telephone or face-to-face contact within 15 minutes of an initial attempt at supervisory contact.

The provider shall designate a supervisor for each separate service or program. A supervisor may be responsible for more than one program. The provider shall employ persons who are qualified according to the job description and selection criteria for the positions they occupy. A provider employing any person who does not possess the qualifications noted in the position's job description shall have a written statement justifying the individual's employment. Upon employment, the provider shall train employees regarding written policies and procedures pertaining to their employment and job responsibilities. Additionally, the provider shall have a policy and required training process for all employees regarding mandatory reporting of allegations of consumer abuse or neglect. The provider shall ensure that all new staff receive an orientation within the first 10 days of employment. The orientation shall include an introduction to the staff person's primary job responsibilities and requirements. Within the first 30 days of employment or initiation, the provider shall also train all new staff in, but not limited to: its mission, philosophy, and goals; its services, policies, and procedures pertaining to the employee, contract clinician, student, or volunteer's job responsibilities; an organizational chart that delineates lines of accountability and authority pertaining to the person's job responsibilities; the provider's policies and procedures on consumer confidentiality and

disclosure of information, including penalties for violation of the following policies and procedures and an orientation to federal confidentiality requirements as they apply to the provider: consumer rights; universal precautions; training on identification of abuse and neglect and mandatory reporting procedures; appropriate identification and documentation of incidents; and sensitivity to differences in cultural norms and values. Until the training is completed, the staff person shall not work unless accompanied by a staff member who is experienced and knowledgeable in these areas.

- Specific to residential facilities: Staff must have certain training including but not limited to crisis plans and common behavioral issues and management.
- Specific to 24-hour programs providing medical monitoring: The provider must supply adequate staff for monitoring of individuals. A medical staff person such as a physician, physician extender, RN, or LPN must evaluate each patient each shift unless the physician documents no need for further medical monitoring. The provider must have a policy regarding face-to-face or telemedicine availability of medical staff to directly observe the patient after hours within 30 minutes as necessary and appropriate absent other arrangements.
- See also section on Special Populations regarding staffing and training for specialized services to a unique population.

Placement

Mental Health (MH) and Substance Use Disorder (SUD): As a condition of placement at a BHC, an initial assessment shall be conducted. The initial assessment shall review the consumer's psychiatric and psychosocial history, history of medical and psychiatric treatment, current mental status, current medical and psychiatric status with regard to health and medications prescribed, evaluation of suicidal or homicidal ideation, universal screening for trauma, presenting problems as identified objectively and subjectively, and summarize the consumer's needs and preferences. No references to ASAM were found in the licensing regulations.

Treatment and Discharge Planning and Aftercare Services

Mental Health (MH) and Substance Use Disorder (SUD): Treatment planning, with updates every 90 days, is required. Discharge planning is also required, although references to timing or aftercare/follow-up requirements were not found.

Treatment Services

Mental Health (MH) and Substance Use Disorder (SUD): The BHC must provide a written description of all services available to the public and potential consumers.

- Specific to residential facilities: The BHC is responsible for monitoring and facilitating the consumer's health; linkage and referral to address acute medical and psychiatric health concerns; referral for primary care once a year.
- Specific to 24-hour programs providing medical monitoring: BHCs providing medical stabilization must provide or arrange to obtain prescribed medications. See also section on Staffing for additional information regarding medical monitoring requirements.
- See also section on Special Populations regarding specialized services to a unique population.
- No references to medication-assisted treatment specific to residential treatment were identified.

Patient Rights and Safety Standards

Mental Health (MH) and Substance Use Disorder (SUD): A consumer, an employee, or any other individual may make a complaint to the provider. A supervisor shall report to the administrator within 24 hours regarding all violations, or suspected violations, of a consumer's rights, except in the case of physical abuse for which immediate notification shall be made. The provider must have evidence that all violations, or suspected violations, of a consumer's rights are thoroughly investigated within a reasonable time period not to exceed 10 days. The administrator shall provide a written report to the human rights committee of his findings and of the actions taken to prevent further occurrences. A consumer or consumers shall be identified by case number only. The provider shall make a notation of the incident and the effect of the incident on a consumer's illness or treatment in a consumer's record. If the administrator's findings and actions on behalf of a consumer regarding a violation of the consumer's rights is unfavorable, insufficient or not forthcoming within a reasonable time, the consumer, or his or her legal representative, may appeal to the governing body of the provider, the state licensure body, the West Virginia advocate or other appropriate resource. The provider shall also report, investigate, monitor and remediate consumer-related incidents in a manner consistent with regulations and minimum current guidelines.

The provider shall have in place policies and procedures regarding emergency management of potentially dangerous consumer behavior. Seclusion is not an intervention permitted in any licensed community-based program. Additionally, staff shall be trained and able to demonstrate competency in systematic de-escalation procedures as part of orientation.

Training for direct care staff shall be renewed at intervals determined by provider policy but occur no less than yearly. The use of restraints must be in accordance with a written modification to the consumer's treatment plan and implemented in accordance with safe and appropriate techniques.

Quality Assurance or Improvement

Mental Health (MH) and Substance Use Disorder (SUD): The BHC must have and implement a systems review of the appropriateness and effectiveness of consumer services, which includes an analysis of the results of treatment plan reviews and of reports by the human rights committee. Particularly, the protection of civil rights for consumers with disabilities is of extreme importance. Special attention and efforts are essential to ensure that a consumer's human and civil rights are promoted, exercised, and protected.

Governance

Mental Health (MH) and Substance Use Disorder (SUD): No information related to requirements for governance were identified.

Special Populations

Mental Health (MH) and Substance Use Disorder (SUD): If a BHC provides specialized services to a unique population, the provider shall ensure that: The service and clinical model reflects knowledge and use of evidence-based and theory-guided practices; Clinical and professional staff are appropriately trained, certified, or licensed in the area of service provided; Direct care staff are trained to understand issues in clinical treatment of the population and are able to use suitable intervention techniques when necessary and appropriate; The environment and milieu of the treatment location is clinically, structurally, and developmentally appropriate for the population served; and The facility is suitably secure and staff ratios are consistent with the consumer's treatment plan. In cases in which a staff ratio is not specified in the consumer's plan of care, the provider shall assure that sufficient staff is present to enable consumer safety in case of emergency.

Location of Regulatory and Licensing Requirements

Department of Health and Human Resources¹. Regulatory data collected September 3, 2019.

¹ See <http://apps.sos.wv.gov/adlaw/csr/readfile.aspx?DocId=51134&Format=PDF>.

Other Information Sources

James Matney, SSA; National Conference of State Legislatures CON Program Overview,
<http://www.ncsl.org/research/health/con-certificate-of-need-state-laws.aspx>

WEST VIRGINIA 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 Department of Health and Human Resources, Bureau for Medical Services (BMS) oversees the state Medicaid program. West Virginia has a Section 1115 waiver permitting Medicaid coverage of residential treatment for SUD. It also has historically relied on the in lieu of provision to reimburse certain services in IMDs as well as Disproportionate Share Hospital (DSH) payments.

Types of Facilities

Mental Health (MH): Residential treatment that is specific to mental health is not reimbursable. However, Behavioral Health Rehabilitation Services are reimbursed. These are defined as services that are medical or remedial that recommended by a physician, PA, APRN, licensed psychologist, or supervised psychologist for the purpose of reducing a ... mental disability and restoration of a member to his/her best function level. These services are designed for all members with conditions associated with mental illness, substance abuse and/or dependence. Behavioral Health Rehabilitation Services may be provided to members in a variety of settings, including in ... a residential program.

Substance Use Disorder (SUD): Pursuant to the 1115 waiver, for residential treatment for individuals with SUD, expenditures for otherwise covered services furnished to otherwise eligible individuals who are primarily receiving treatment and withdrawal management services for SUD who are short-term residents in facilities that meet the definition of an Institution for Mental Diseases (IMD). Levels of care include:

- 3.1 Clinically Managed Low Intensity Residential Services.
- 3.3 Clinically Managed Population-Specific High Intensity Residential Services.
- 3.5 Clinically Managed High Intensity Residential Services.
- 3.7 Medically Monitored Intensive Inpatient Services.
- 3.2-WM Clinically Managed Residential Withdrawal Management Services.

- 3.7-WM Medically Monitored Inpatient Withdrawal Management Services.
- OTP Opioid Treatment Program Services provided to short-term residents.
- OBOT Office Based Opioid Treatment provided to short-term residents.

Processes of Medicaid Enrollment

Mental Health (MH) and Substance Use Disorder (SUD): To be reimbursed by Medicaid, providers must be enrolled as Medicaid providers and revalidated every 5 years. Providers must be appropriately licensed for their scope of practice. Medicaid providers may be subject to document review or announced or unannounced facility inspection.

Substance Use Disorder (SUD): To be reimbursed by West Virginia Medicaid, a BHC must be licensed through the West Virginia Office of Health Facility Licensure and Certification (OHFLAC) and comply with state Medicaid LBHC requirements. To be reimbursed under the Section 1115 waiver, services must be provided in a BMS-certified facility that is enrolled as a Medicaid provider and assessed by BMS as delivering care consistent with ASAM Levels 3.1, 3.3, 3.5, and/or 3.7 or the equivalent level of care of the state's chosen other comparable, nationally recognized SUD program standards based on evidence-based clinical treatment guidelines, and, for participation in the managed care delivery system, has been credentialed and enrolled by an MCO as a network provider. Each residential treatment provider will be certified as meeting the provider and service specifications described in the BMS policy manual. The MCOs will provide credentialing for ASAM Levels 3.1, 3.3, 3.5 and/or 3.7 or credentialing for the levels of care of the other comparable, nationally recognized SUD program standards based on evidence-based clinical treatment guidelines contingent on the providers receiving certification from the state.

Staffing

Mental Health (MH) and Substance Use Disorder (SUD): All covered and authorized services must be provided by enrolled providers practicing within the scope of their license, utilizing professionally accepted standards of care, and in accordance with all state and federal requirements. The state Medicaid program must conduct provider screening. This includes reviews of provider applications as well as random reviews of enrolled providers to ensure applications are current and reflect any substantive changes outlined in the regulations and ensure all required disclosure information is present. The state may review employees/contractors of the enrolled provider to determine provider compliance with required checks of public databases identifying any individuals/entities that have been excluded or disqualified via criminal conviction/license revocation or restriction from providing or being reimbursed for services paid by any federal/state program. The state reviews personnel

records of enrolled providers' employees providing direct care or having direct access to Medicaid members to ensure there are no disqualifying criminal convictions that would prohibit these individuals from providing services.

Substance Use Disorder (SUD): Pursuant to the Section 1115 waiver, through revisions of its policy manual and contract requirements for managed care organizations (MCOs), BMS will establish standards of care for SUD demonstration services that incorporate industry standard benchmarks from the ASAM Criteria or another comparable, nationally recognized SUD program standards based on evidence-based clinical treatment guidelines for staffing specifications.

Pursuant to the Section 1115 waiver, providers were to receive training and education on the ASAM or the other comparable, nationally recognized SUD program standards based on evidence-based clinical treatment guidelines level of care criteria and the application of the ASAM Criteria or the other comparable, nationally recognized SUD program standards based on evidence-based clinical treatment guidelines in the assessment process. MCOs are required to provide evidence of initial and ongoing training of providers during site reviews conducted by the state. As part of a quality monitoring strategy, the state will review personnel and clinical records of a sample of the provider network to determine appropriate application and fidelity to the established assessment process.

The SUD waiver manual further requires that adult residential treatment must meet the credentials and qualifications for each service provided as described in Chapter 503, Licensed Behavioral Health Centers (LBHC). Within the SUD waiver manual are detailed staffing requirements, including but not limited to medical and other staffing for levels 3.7 and 3.2-WM.

The residential SUD Medicaid enrollment application requires attestation regarding staffing requirements including, but not limited to, physician and emergency availability, coverage, and credentials. The LBHC and SUD residential Medicaid requirements also require that each provider must develop and maintain a credentialing committee composed of the clinical supervisor and/or certified staff representative of the disciplines or practitioners within the agency. This committee is responsible for overseeing and assuring standards regarding staffing, including credentials, training, supervision and compliance monitoring.

Placement

Substance Use Disorder (SUD): Pursuant to the 1115 waiver, West Virginia Medicaid recipients with an SUD diagnosis when determined to be medically necessary by the MCO utilization staff and in accordance with an individualized service plan. MCO utilization staff, physicians or medical directors will perform independent assessments to determine level of care and length of stay recommendations based upon the ASAM Criteria multidimensional assessment criteria or another comparable, nationally recognized SUD program standards based on evidence-based clinical treatment guidelines assessment criteria. The state's average length of stay for

individuals admitted into all BMS-certified facilities at all levels of care is thirty (30) days. Through revisions of its policy manual and contract requirements for managed care organizations (MCOs), BMS will establish standards of care for SUD demonstration services that incorporate industry standard benchmarks from the ASAM Criteria or another comparable, nationally recognized SUD program standards based on evidence-based clinical treatment guidelines for patient assessment and placement.

The SUD waiver manual indicates Residential Adult Services (RAS) apply to adults ages 18 and older who have been diagnosed with a substance abuse and/or co-occurring substance abuse/mental health disorder. Individuals placed in these levels of care are unable to be treated on an outpatient basis effectively. The level of care that individual is placed in is based upon medical necessity and the ASAM Criteria. The manual includes basic requirements for continuing stay and discharge that vary somewhat by level and detailed requirements for admission, including referral, medical clearance, physical exams, assessment using the ASAM criteria, diagnosis, risk level, and other matters, with specific criteria for levels 3.1, 3.3, 3.5, and 3.7. For level 3.2-WM, specific physical and psychosocial standards are in place, including requirements for an admission assessment that includes a comprehensive nursing assessment by an RN; approval of admission by a physician, assessment by a physician within 24 hours of admission; approval of the admission by a physician; a comprehensive history and physical exam performed within 12 hours of admission, accompanied by appropriate laboratory and toxicology tests; addiction-focused history obtained as part of the assessment and reviewed by a physician during the admission process; and biopsychosocial screening assessments to determine placement.

The residential SUD application requires attestation regarding assessment requirements.

Treatment and Discharge Planning and Aftercare Services

Substance Use Disorder (SUD): The SUD waiver manual requires, for all adult residential services, the development of a Service Plan by an interdisciplinary team within 72 hours of admission and review at least every seven calendar days from the date of admission. Among other things this includes a discharge plan, with such planning beginning at admission for level 3.2-WM. The residential SUD application requires attestation regarding treatment planning and discharge planning requirements.

Treatment Services

Substance Use Disorder (SUD): Pursuant to the Section 1115 waiver, covered services include: (a) Clinically-directed therapeutic treatment to facilitate recovery skills, relapse prevention, and emotional coping strategies. (b) Addiction pharmacotherapy and drug screening. (c) Motivational enhancement and engagement strategies. (d) Counseling and clinical monitoring.

(e) Withdrawal management and related treatment designed to alleviate acute emotional, behavioral, cognitive, or biomedical distress resulting from, or occurring with, an individual's use of alcohol and other drugs. (f) Regular monitoring of the individual's medication adherence. (g) Recovery support services. (h) Counseling services involving the beneficiary's family and significant others to advance the beneficiary's treatment goals, when: (1) the counseling with the family member and significant others is for the direct benefit of the beneficiary; (2) the counseling is not aimed at addressing treatment needs of the beneficiary's family or significant others; and (3) the beneficiary is present except when it is clinically appropriate for the beneficiary to be absent in order to advance the beneficiary's treatment goals. (i) Education on benefits of medication assisted treatment and referral to treatment as necessary. Through revisions of its policy manual and contract requirements for managed care organizations (MCOs), BMS will establish standards of care for SUD demonstration services that incorporate industry standard benchmarks from the ASAM Criteria or another comparable, nationally recognized SUD program standards based on evidence-based clinical treatment guidelines for patient assessment and placement, service and staffing specifications.

The SUD waiver manual requires that MAT be available in all levels of residential and withdrawal management treatment. It also implements detailed requirements for levels 3.1, 3.3, 3.5, 3.7, and 3.2-WM that are based on the ASAM standards. Among other things, these requirements include: number of hours of clinical service per week, use of evidence-based practices, treatment of co-occurring conditions, and affiliations with other levels of care.

The residential SUD application requires attestation regarding service requirements including, but not limited to, clinical hours per week, use of evidence-based treatment, provision of services specifically for those with co-occurring disorders, services that comply with the relevant ASAM level(s), and a requirement that all forms of MAT be available in all levels of residential treatment.

Care Coordination

Mental Health (MH) and Substance Use Disorder (SUD): The Medicaid LBHC manual addresses the provision of coordinated care for those with severe and/or chronic behavioral health conditions. This includes a comprehensive master service plan and on-going care coordination. Beneficiaries who can use this approach are those in crisis stabilization and detoxification as well as those receiving non-methadone MAT, among others.

Substance Use Disorder (SUD): The SUD waiver manual specifies that residential facilities must provide coordination of care services to members as needed. To facilitate coordination of care, the provider must contact and confirm the member is enrolled with the identified Managed Care Organization (MCO) within 48 hours of initiation of any SUD services being provided to a Medicaid MCO member. All Medicaid enrolled providers should coordinate care if a Medicaid member receives different Medicaid services at different locations with other providers to

ensure that quality care is taking place and that safety is at the forefront of the member's treatment.

Quality Assurance or Improvement

Mental Health (MH) and Substance Use Disorder (SUD): State Medicaid Program Quality and Program Integrity oversight includes: (1) Data Analysis and Review; (2) Post Payment Review; (3) Prevention versus Collection; (4) Medicaid Fraud Referrals; and (5) Provider Eligibility.

Substance Use Disorder (SUD): See Staffing section regarding LBHC and SUD residential Medicaid requirements which include that each participating provider must develop and maintain a credentialing committee composed of the clinical supervisor and/or certified staff representative of the disciplines or practitioners within the agency. This committee is responsible for overseeing and assuring standards regarding staffing, including credentials, training, supervision and compliance monitoring.

Special Populations

Substance Use Disorder (SUD): The residential SUD application requires attestation regarding provision of services specifically for those with co-occurring disorders.

Location of Medicaid Requirements

WV Department of Health & Human Resources Bureau for Medical Services, Chapter 503 LBHCs²; Chapter 504 SUD Services (SUD Waiver)³; Chapter 800(B) Quality and Program Integrity⁴; Section 1115 Waiver Approval⁵; Provider Enrollment Chapter 300⁶. Regulatory data collected December 2019.

² See

https://dhhr.wv.gov/bms/Provider/Documents/Manuals/Chapter%20503%20Licensed%20Behavioral%20Health%20Centers/Chapter_503_LBHC_Services%20final%20draft%2007.10.18%20scb%207.12.18%20skyFinalApproved.pdf.

³ See <https://dhhr.wv.gov/bms/Pages/Chapter-504-Substance-Use-Disorder-Services.aspx>.

⁴ See https://dhhr.wv.gov/bms/Provider/Documents/Manuals/bms-manuals-chapter_800B_QPI.pdf.

⁵ See <https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/wv/wv-creating-continuum-care-medicaid-enrollees-substance-ca.pdf>.

⁶ See <https://dhhr.wv.gov/bms/Provider/Documents/Manuals/Chapter%20300-Provider%20Participation%20FINAL%205.19.18.pdf>.

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>.