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TO: BUREAU OF SUBSTANCE ADDICTION SERVICES LICENSED AND APPROVED PROVIDERS

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SUBJECT: FLEXIBILITY IN 24 HOUR DIVERSIONARY SUD TREATMENT SERVICES

DATE: SEPTEMBER 1, 2023

This document is intended to issue guidance to all Licensed and Approved Providers by the Massachusetts Department of Public Health's (DPH) Bureau of Substance Addiction Services (BSAS) regarding the scope of services within 24 Hour Diversionary Services.

The Department has revised sections of 105 CMR 164.000 with the purpose of providing flexibility and reducing administrative burdens for Licensed and Approved Providers. The Guidance below is intended to support providers in operating efficiently and resourcefully in 24 Hour Diversionary service settings while also ensuring quality patient care.

BSAS encourages stakeholders with specific questions to contact your Regional License Inspector: <https://www.mass.gov/service-details/information-for-licensed-substance-use-disorder-treatment-programs>

BSAS encourages all providers to review the new regulation in its entirety, which may be found at the following link: <https://www.mass.gov/regulations/105-CMR-16400-licensure-of-substance-abuse-treatment-programs>

Applicable SUD Treatment Regulations

Pursuant to the Scope of 24-hour Diversionary Services, under 105 CMR 164.101, Licensed or Approved Providers that meet the requirements for a determined service type under 105 CMR 164.100 through 105 CMR 164.153 may also deliver services to lower acuity patients, provided that the Licensed or Approved Provider **meets all applicable staffing and service requirements** for each additional service type.

Defining Flexible or Hybrid Programs

Programs providing 24-hour Diversionary Medically Managed Withdrawal Management Services under 105 CMR 164.132 (previously known as Acute Treatment Services “ATS”), may now provide a less intensive service using its existing license as long as the program has 1) amended its current license or approval to include the lower acuity service and 2) acquired the required programming and required staff for that service setting. Programs will be expected to demonstrate evidence of staffing capacity to provide the less intensive service. Only Licensed or Approved Providers with both Withdrawal Management (WMS) and Clinical Stabilization (CSS) services on their License or Approval may utilize the hybrid model.

The hybrid program provides flexibility for patients in these settings to “step down” to a less intensive service while allowing the program to meet service delivery needs for each patient. Hybrid programs must demonstrate adequate staffing of qualified personnel as outlined in BSAS staffing grids to fulfill the service objectives and needs of each patient served at each service based upon acuity, patient assessments, treatment plans, and other relevant factors as determined by the Licensed or Approved Provider.

Example of a Hybrid Program

It is up to the program how they intend to utilize the hybrid flexibility. Licensed or Approved Providers must identify the core number of beds at each setting, and which beds will be flexed. Through a licensing application, providers must identify the maximum number of beds they anticipate utilizing at the WMS (4.0/3.7) level of care.

For example, within the licensing application, a program seeking to operate a 32-bed hybrid program may identify 20 beds for 4.0/3.7 level of care, and 12 beds for 3.5 level of care. This program came to this decision through a review of available staff, the staff schedules, and the utilization of each service setting. Through this review, the program identified that it would be feasible to flex 8 of the WMS (4.0/3.7 level of care) beds to CSS (3.5 level of care) beds.

For this Provider, this means that at any point in time, they could have a 20/12 bed split or a 12/20 bed split. The core beds would therefore be 12 at 4.0/3.7 level of care and 12 at 3.5 level of care, with 8 beds flexed.

The 32 beds appear on License or Approval as: 20 WMS (3.7) beds & 12 CSS (3.5) beds. The Program determines that 8 of the 20 WMS (3.7) beds may be flexed to a less intensive service.

The program identifies 12 WMS (3.7) beds and 12 CSS (3.5) as the “core”.

At any given point in time:

- Program could have a 20 WMS (3.7) bed to 12 CSS (3.5) bed split
- Program could have a 12 WMS (3.7) bed to 20 CSS (3.5) bed split

Using the example above, it is important that Licensed or Approved Providers carefully examine which necessary staff will serve the core beds for each service setting. Scheduling of staff in a hybrid program will depend on the patient census, patient acuity, and any anticipated service setting changes for each day or week.

Operating a Hybrid Program

Providers must be mindful that the flexibility of the hybrid program is intended to meet the service delivery needs of each individual patient. When patients step down, Providers must adjust how they meet the needs of each patient. All WMS patients must meet an ASAM Level 4.0 or 3.7 criteria. All CSS patients must meet an ASAM Level 3.5 criteria.

In a hybrid setting, the program must have staff in ratios with the census of the program, at each level of care, on that specific day. A Program Director and Senior Clinician are required at both (3.7 WMS and 3.5 CSS) service settings. Providers must make every reasonable effort to provide sufficient staff in order to guarantee admissions up to their licensed capacity. At any time, Providers must demonstrate that they have all the staff to deliver services for all patients in the WMS (4.0/3.7) beds and for the CSS (3.5) beds.

Within a hybrid program, a full discharge summary is not needed for a patient to step down from a WMS to a CSS bed. However, prior to stepping down to the less intensive service, an examination/assessment of each patient should be made as clinically indicated and documented in the patient record. All patient documentation should be updated and completed. The transition should be documented clearly within the patient's clinical record. Transition notes must include appropriateness of the less intensive service as it relates to the patient's treatment needs. Treatment plan goals should be clearly documented. The new treatment team must review all assessment and transition notes and make any updates as clinically necessary. The patient's individualized support plan must be created and/or updated by the new treatment team during the transition process.

Providers must develop policies and procedures for the operation of the flexible elements within their hybrid program. The step-down process should be included in patient handbooks and a discussion with the patient about the process should begin at admission. Staff must be trained on how to document the step-down with the patient's record.

For specific questions relating to the continuation of a patient on medications for opioid use disorder (MOUD), please contact the Massachusetts State Opioid Treatment Authority. For contact information, please visit: <https://www.mass.gov/info-details/information-for-licensed-substance-use-disorder-treatment-programs>

How to Apply for a Hybrid Program

Licensed or Approved Providers may pursue a hybrid program through a licensing application within the BSAS eLicensing Virtual Gateway. The hybrid program option was also intended to reduce the administrative burden of holding separate licenses/approvals for each service setting, allowing for one application to include all applicable services, one application fee, and one renewal process for all services listed under the license/approval.

If interested, Providers are encouraged to contact their regional Licensing Inspector before beginning the process. For contact information, please visit: <https://www.mass.gov/info-details/information-for-licensed-substance-use-disorder-treatment-programs>

Providers may begin an amendment licensing application on their WMS license or approval to add the CSS service setting. Simultaneously, if the Provider holds a CSS license or approval, they will submit a closure licensing application for their CSS license or approval. Alternatively, Providers may pursue the process of becoming a hybrid program during a renewal period for their WMS license or approval.

The licensing process is only a snapshot in time of the hybrid program. The Provider must demonstrate the capacity to provide both services. This includes meeting all staffing requirements for both services in the hybrid program at the time of initial licensure or approval as well as during the renewal process. Within the licensing application, Providers must also include their plans for how they intend to utilize beds and deliver the hybrid service.

Waivers

Providers may consider utilizing the waiver provision under 105 CMR 164.023 when evaluating operationalization of a hybrid model should certain regulatory requirements fall under any circumstances listed below:

- 1) Compliance would cause undue hardship to the provider, as documented by the Licensed or Approved Provider in a manner defined by the Department;
- 2) The provider is in substantial compliance with the spirit of the requirement and has instituted compensating features that are acceptable to the Department;
- 3) The provider's noncompliance does not jeopardize the health, safety, or well-being of its patients or residents and does not limit the provider's capacity to provide the service; and
- 4) The provider provides to the Department written documentation supporting its request for a waiver.

Providers can access the waiver form through the link below. Once the form is completed with all required information it can be submitted to your Regional License Inspector.

<https://www.mass.gov/doc/regulatory-and-contractual-waiver-request-form-0/download>