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4. Program Regulations

130 CMR 462.000: *Licensed Independent Behavioral Health Clinician Services*

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462.401: Introduction

All licensed independent behavioral health clinicians participating in MassHealth must comply with the regulations of the MassHealth agency, including but not limited to regulations set forth in 130 CMR 462.000 and 130 CMR 450.000: *Administrative and Billing Regulations*.

462.402: Definitions

The following terms used in 130 CMR 462.000 have the meanings given in 130 CMR 462.402, unless the context clearly requires a different meaning.

Case Consultation. Intervention, including scheduled audio-only telephonic, audio-video, or in-person meetings, for behavioral and medical management purposes on a member's behalf with agencies, employers, or institutions which may include the preparation of reports of the member's psychiatric status, history, treatment, or progress (other than for legal purposes) for other physicians, agencies, or insurance carriers.

Child and Adolescent Needs and Strengths (CANS). A tool that provides a standardized way to organize information gathered during behavioral-health clinical assessments. A Massachusetts version of the tool has been developed and is intended to be used as a treatment decision support tool for behavioral-health providers serving MassHealth members younger than 21 years of age.

Diagnostic Service Evaluation. The examination and determination by interview techniques of a member's physical, psychological, social, economic, educational, and vocational capabilities and disabilities for the purposes of developing a diagnostic formulation and designing a treatment plan.

Family Consultation. A scheduled meeting of at least one-half hour with one or more of the parents, legal guardian, or foster parents of a child who is being treated by the provider when the parents, legal guardian, or foster parents are not clients of the provider.

Family Therapy. The psychotherapeutic treatment of more than one member of a family simultaneously in the same session.

Group Therapy. The application of psychotherapeutic or counseling techniques to a group of persons, most of whom are not related by blood, marriage, or legal guardianship.

Individual Therapy. Psychotherapeutic services provided to an individual.

Licensed Independent Behavioral Health Clinician. A licensed independent clinical social worker, licensed mental health counselor, or licensed marriage and family therapist who meets the requirements of 130 CMR 462.404.

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Multiple-family Group Therapy. The treatment of more than one family unit, at the same time in the same visit, by one or more authorized staff member. In this type of therapy, there must be more than one family member present per family unit and at least one of the family members per family unit must be an identified patient of the center.

Telehealth. The use of synchronous or asynchronous audio, video, electronic media or other telecommunications technology, including, but not limited to:

- (1) interactive audio-video technology;
- (2) remote patient monitoring devices;
- (3) audio-only telephone; and
- (4) online adaptive interviews, for the purpose of evaluating, diagnosing, consulting, prescribing, treating or monitoring of a patient's physical health, oral health, mental health, or substance use disorder condition.

Treatment Service. A service related to diminishing the distress and symptoms of mental health or substance use disorder, as defined by the current edition of the *Diagnostic and Statistical Manual of Mental Disorders*, including, but not limited to, individual, couple, family, and group psychotherapy. The use of evidence-based treatment modalities is encouraged.

462.403: Eligible Members

(A) (1) MassHealth Members. The MassHealth agency covers licensed independent behavioral health clinician services only when provided to eligible MassHealth members, subject to the restrictions and limitations described in 130 CMR 462.000 and 130 CMR 450.000:

Administrative and Billing Regulations. The regulations at 130 CMR 450.105: *Coverage Types* specifically state, for each MassHealth coverage type, which services are covered and which members are eligible to receive those services.

(2) Recipients of the Emergency Aid to the Elderly, Disabled and Children Program. For information on covered services for recipients of the Emergency Aid to the Elderly, Disabled and Children (EAEDC) Program, see 130 CMR 450.106: *Emergency Aid to the Elderly, Disabled and Children Program.*

(B) For information on verifying member eligibility and coverage type, see 130 CMR 450.107: *Eligible Members and the MassHealth Card.*

(C) See 130 CMR 450.105: *Coverage Types* and 130 CMR 450.124: *Behavioral Health Services* for limitations on mental health and substance use disorder services provided to members enrolled with a MassHealth managed care provider.

462.404: Provider Eligibility

Payment for the services described in 130 CMR 462.000 is made only to providers who are participating in MassHealth as of the date of service. The eligibility requirements are as follows.

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(A) In State. Licensed independent behavioral health clinicians are eligible to participate in MassHealth only if they are Medicare providers and are licensed to practice as a licensed independent behavioral health clinician as follows.

(1) Licensed Independent Clinical Social Workers. An independent clinical social worker must be licensed by the Massachusetts Board of Registration of Social Workers to practice and engage in the independent practice of clinical social work pursuant to M.G.L. c 13, § 84 and 258 CMR 9.00: *Licensure Requirements and Procedures*.

(2) Licensed Mental Health Counselors. A mental health counselor must be licensed by the Board of Registration of Allied Mental Health and Human Services Professions to provide counseling services pursuant to M.G.L. c. 112, § 165 and 262 CMR 2.00: *Requirements for Licensure as a Mental Health Counselor*.

(3) Licensed Marriage and Family Therapists. A marriage and family therapist must be licensed by the Board of Registration of Allied Mental Health and Human Services Professions to provide therapeutic services pursuant to M.G.L. c. 112, §§ 163 through 172 and 262 CMR 3.00: *Requirements for Licensure as a Marriage and Family Therapist*.

(B) Out of State. A licensed independent behavioral health clinician located outside Massachusetts is eligible to participate in MassHealth only if they are licensed to practice at the independent level by their state's appropriate board of registration in their field and are a Medicare provider. Out-of-state licensed independent behavioral health clinical services are covered only as provided in 130 CMR 450.109: *Out-of-state Services*.

462.405: Payable Services

(A) The MassHealth agency pays for the following services personally provided by an eligible licensed independent behavioral health clinician:

- (1) Diagnostic service evaluation.
- (2) Psychotherapy, including:
 - (a) individual therapy;
 - (b) couple therapy;
 - (c) family therapy; and
 - (d) group therapy.
- (3) Case consultation and family consultation.

(B) The licensed independent behavioral health clinician may provide therapy in any suitable location, such as an office, the member's place of residence, other facility, or by telehealth.

462.406: Nonpayable Services

Research and Experimental Treatment. The MassHealth agency does not pay for research or experimental treatment.

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462.407: Nonpayable Circumstances

The MassHealth agency does not pay a licensed independent behavioral health clinician for services provided under any of the following circumstances.

- (A) The licensed independent behavioral health clinician provided the service in a facility approved by the MassHealth agency and is paid by the facility to provide that service, whether or not the cost of the service is included in the MassHealth agency's rate of payment for that facility.
- (B) The licensed independent behavioral health clinician provided the service in a facility that is organized to provide primarily nonmedical services and is paid by the facility to provide the service.
- (C) The licensed independent behavioral health clinician has received or will receive payment for the service from the Commonwealth, county, or municipality.
- (D) Under comparable circumstances, the licensed independent behavioral health clinician does not customarily bill patients who do not have health insurance.

462.408: Maximum Allowable Fees

The Executive Office of Health and Human Services (EOHHS) determines the maximum allowable fees for licensed independent behavioral health clinicians as set forth in 101 CMR 329.00: *Rates for Psychological and Licensed Independent Clinical Social Work Services*. The fees include payment for the complete cost of psychological diagnostic and treatment services. Payment is always subject to the conditions, exclusions, and limitations set forth in 130 CMR 462.000 and 130 CMR 450.000: *Administrative and Billing Regulations*. Payment for a service is made at the lower of the following:

- (A) the licensed independent behavioral health clinician's usual and customary charge to the general public for the same or similar service; or
- (B) the maximum allowable fee listed in the applicable EOHHS fee schedule.

462.409: Early and Periodic Screening, Diagnostic and Treatment (EPSDT) Services

The MassHealth agency pays for all medically necessary services for EPSDT-eligible members provided by licensed independent behavioral health clinicians in accordance with 130 CMR 450.140: *Early and Periodic Screening, Diagnostic and Treatment (EPSDT) Services: Introduction*, without regard to service limitations described in 130 CMR 462.000, and with prior authorization.

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462.410: Recordkeeping Requirements

(A) Payment for any service listed in 130 CMR 462.000 is conditioned upon its full and complete documentation in the member's medical record. The licensed independent behavioral health clinician must maintain an electronic or hard copy record of all licensed independent behavioral health clinician services provided to a member for a period of at least six years following the date of service subject to any applicable federal or state standard requiring a longer retention period. For all services, the record must contain the following information:

- (1) the member's name and case number, MassHealth identification number, address, telephone number, sex, age, date of birth, marital status, next of kin, school or employment status (or both), and date or dates of service including date of initial contact;
- (2) a report of a physical examination performed within six months of the date of intake or documentation that the member did not want to be examined and any stated reason for that preference;
- (3) the name and address of the member's primary care physician or, if not available, another physician who has treated the member;
- (4) the member's description of the problem, and any additional information from other sources, including the referral source, if any;
- (5) the events precipitating contact with the licensed independent behavioral health clinician;
- (6) the relevant medical, psychosocial, educational, and vocational history;
- (7) a comprehensive diagnostic services evaluation of the member at intake and semi-annually thereafter;
- (8) the clinical impression of the member and a diagnostic formulation, including a specific diagnosis using standard nomenclature;
- (9) a listing of realistic long-range goals, and a time frame for their achievement;
- (10) a listing of short-term objectives, which must be established in such a way as to lead toward accomplishment of the long-range goals;
- (11) the proposed schedule of therapeutic activities necessary to achieve such goals and objectives and the responsibilities of each individual member of the interdisciplinary team;
- (12) a schedule of dates for utilization review to determine the member's progress in accomplishing goals and objectives;
- (13) the name, qualifications, and discipline of the licensed independent behavioral health clinician responsible for the member;
- (14) a written record of annual treatment plan reviews by the licensed independent behavioral health clinician, which relate to the short- and long-range goals;
- (15) all information and correspondence regarding the member, including appropriately signed and dated consent forms;
- (16) a medication-use profile;
- (17) when the member is discharged, a discharge summary, including a recapitulation of the member's treatment and recommendations for appropriate services concerning follow-up as well as a brief summary of the member's condition and functional performance on discharge; and

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(18) for members younger than 21 years of age, a CANS completed during the initial behavioral health assessment and updated at least every 180 days thereafter.

- (B) Release of information in the record is limited to the following:
- (1) those instances required by federal or state statute or regulation in accordance with the confidentiality provisions of the profession; and
 - (2) qualified personnel or consultants of the MassHealth agency or the US Department of Health and Human Services for the purpose of monitoring the provision of services in accordance with 130 CMR 462.000.

462.411: Service Limitations

(A) Diagnostic and Individual Treatment Services. The MassHealth agency pays for diagnostic and treatment services only when a licensed independent behavioral health clinician, as defined by 130 CMR 462.402, personally provides these services to the member or the member's family. The services must be provided to the member on an individual basis.

(B) Multiple Visits on a Same Date of Service. The MassHealth agency pays for only one visit of a single type of service (except for diagnostics) provided to an individual member on one date of service. Return visits on the same date of service are not reimbursable.

(C) Multiple Therapies. The MassHealth agency pays for more than one mode of therapy used for a member during one week when it is clinically justified and when any single approach has been shown to be necessary but insufficient. The need for multiple therapies must be documented in the member's record.

(D) Case Consultation.

- (1) The MassHealth agency pays only for a case consultation that involves a personal meeting with a professional of another agency. Personal meetings may be conducted *via* audio-only telephonic, audio-video, or in person meetings.
- (2) The MassHealth agency pays for case consultation only when written communication and other non-reimbursable forms of communication clearly will not suffice. Such circumstances must be documented in the member's record. Such circumstances are limited to situations in which both the provider and the other party are actively involved in treatment or management programs with the member (or family members) and where a lack of direct communication would impede a coordinated treatment program.
- (3) The MassHealth agency does not pay the provider for court testimony.

(E) Family Consultation. The MassHealth agency pays for consultation with family, or other responsible persons who are not eligible members, when such consultation is integral to the treatment of the member.

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(F) Group Therapy.

(1) Payment is limited to one fee per group member with a maximum of 12 members per group.

(2) The MassHealth agency does not pay for group therapy when it is performed as an integral part of a psychiatric day treatment services, or intensive outpatient program services.

REGULATORY AUTHORITY

130 CMR 462.000: M.G.L. c. 118E, §§ 7 and 12.

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