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4. Program Regulations

130 CMR 411.000: ~~Medical Assistance Program~~ Psychologist Services

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411.401: Introduction

All psychologists participating in MassHealth must comply with the regulations of the ~~Division governing~~ MassHealth agency, including but not limited to ~~Division~~ regulations set forth in 130 CMR 411.000 and 450.000: Administrative and Billing Regulations. ~~The Division pays psychologists for psychological testing only.~~

411.402: Definitions

The following terms used in 130 CMR 411.000 have the meanings given in 130 CMR 411.402, 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 under 21 years of age.

Couple Therapy — psychotherapeutic services provided to a couple whose primary complaint is the disruption of their marriage, family, or relationship.

Diagnostic Services 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.

Intelligence Assessment — a battery of tests to measure intelligence and cognitive ability, listed in the *Mental Measurement Yearbook*, or that conforms to the Standards for Educational and Psychological Tests of the American Psychological Association, such as a full Wechsler Adult Intelligence Scale, Wechsler Intelligence Scale for Children, or Stanford-Binet Intelligence Scales.

Neuropsychological Assessment — a battery of performance-based assessments provided by an eligible provider that assesses cognitive functioning, in order to examine the cognitive consequences of brain damage, brain disease, physical, and mental illness, and other conditions that may impact cognitive functioning. A neuropsychological assessment may include tests of intelligence, attention and concentration, learning and memory, processing speed, visual spatial perception, language skills, visual motor and fine motor skills, sensory perception, executive functioning and emotional functioning.

Personality Assessment — a battery of techniques that yield an evaluation of personality, using at least two personality tests that are listed in the *Mental Measurement Yearbook*, or that conform to the Standards for Educational and Psychological Tests of the American Psychological Association, unless clinically contraindicated.

Psychological ~~Testing~~ Assessment — the use of standardized test instruments ~~and procedures~~ to evaluate aspects of a member's functioning, ~~including aptitudes, educational achievements, cognitive processes, emotional conflicts, and type and degree of psychopathology.~~ Psychological assessment includes intelligence, neuropsychological and personality assessments. Test instruments used for psychological assessment must be published, valid, and in general use as defined by listing in the *Mental Measurement Yearbook* or successor publication, or by conformity to the Standards for Educational and Psychological Testing of the American Psychological Association.

Psychotherapy – the use of psychological and interpersonal theories and related practice methodologies to assess, interpret and modify conscious and unconscious processes of behavior.

Telehealth – The use of synchronous or asynchronous audio, video, electronic media or other telecommunications technology, including, but not limited to: (i) interactive audio-video technology; (ii) remote patient monitoring devices; (iii) audio-only telephone; and (iv) 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 ~~and emotional disorders, and 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, ~~chemotherapy and~~ individual, couple, family, and group psychotherapy.

411.403: Eligible Members

- (A) (1) MassHealth Members. The ~~Division~~ MassHealth agency covers psychologist services only when provided to eligible MassHealth members, subject to the restrictions and limitations described in 130 CMR 411.000 and 130 CMR 450.000: Administrative and Billing Regulations. The ~~Division's~~ regulations at 130 CMR 450.105 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.
- (C) See 130 CMR 450.105: Coverage Types and 130 CMR 450.124: Behavioral Health Services for limitations on mental health and substance ~~abuse services~~ disorder services provided to members enrolled with a MassHealth managed care provider.

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411.404: Provider Eligibility

Payment for the services described in 130 CMR 411.000 is made only to providers who are participating in MassHealth as of the date of service. The eligibility requirements are as follows.

(A) In State. A psychologist is eligible to participate in MassHealth only if the psychologist is licensed to practice by the Massachusetts Board of Registration of Psychologists, with a specialization listed in clinical or counseling psychology, neuropsychology, or a closely related specialty, and is a Medicare provider.

(B) Out of State. A psychologist located outside of Massachusetts is eligible to participate in MassHealth only if the psychologist is licensed to practice by his or her state's appropriate board of registration, and is a Medicare provider. Out-of-state psychological services are covered only as provided in 130 CMR 450.109: Out-of-state Services.

411.405: Payable Services

~~(A) The Division-MassHealth agency~~ pays for ~~psychological testing~~medically necessary services personally provided by ~~an eligible licensed~~ psychologist, subject to the restrictions and limitations in 130 CMR 411.000.

~~(AB) The psychologist may provide psychological testing~~MassHealth agency pays for medically necessary services provided in any suitable location, such as the psychologist's office, the member's place of residence, ~~or~~ other facility, or by telehealth.

(B) The MassHealth agency pays for the following services personally provided by an eligible psychologist:

- (1) psychological assessment, including:
 - (a) intelligence assessment;
 - (b) personality assessment; and
 - (c) neuropsychological assessment
- (2) case consultation and family consultation
- (3) diagnostic services evaluation
- (4) psychotherapy including:
 - (a) individual therapy;
 - (b) couple therapy;
 - (c) family therapy; and
 - (d) group therapy.

411.406: Nonpayable Services

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

~~— The Division does not pay a psychologist for diagnostic (other than by testing) or treatment services, including services the psychologist performs when working under the supervision of a psychiatrist or when responding to a referral from a psychiatrist.~~

411.407: Nonpayable Circumstances

The ~~Division~~ MassHealth agency does not pay a psychologist for services provided under any of the following circumstances.

(A) The psychologist 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 ~~Division's~~ MassHealth agency's rate of payment for that facility.

(B) The psychologist 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 psychologist ~~has received payment for services for which the psychologist has~~ already received or will receive payment for the service from the Commonwealth, county, or municipality.

(D) Under comparable circumstances, the psychologist does not customarily bill patients who do not have health insurance.

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411.408: Maximum Allowable Fees

The ~~Massachusetts Division of Health Care Finance and Policy~~Executive Office of Health and Human Services (EOHHS) determines the maximum allowable fees for psychologist services as set forth in 101 CMR 329.00: *Rates for Psychological and Licensed Independent Clinical Social Work Services*~~real testing~~. The fees include payment for the complete cost of ~~interviewing and testing~~psychological assessments of the member ~~including~~, scoring the test, interpreting the results, ~~and~~writing the report, ~~and other psychological diagnostic and treatment services~~. Payment is always subject to the conditions, exclusions, and limitations set forth in 130 CMR 411.000 and 130 CMR 450.000: *Administrative and Billing Regulations*. Payment for a service is made at the lower of the following:

- (A) the psychologist'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 ~~Division of Health Care Finance and Policy~~EOHHS fee schedule.

~~(130 CMR 411.409 Reserved)~~

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

The MassHealth agency pays for all medically necessary psychologist services for EPSDT-eligible members 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 411.000 and with prior authorization.

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411.410: Referral

~~The Division pays a psychologist for psychological testing only if an agency or individual responsible for providing services to the member requests then, or if a physician or community health center requests them for the purposes of determining or redetermining eligibility for the EAEDC Program pursuant to 130 CMR 450.106. This ensures that the service is provided within the context of an overall service plan. Such agencies or individuals may include physicians, psychologists, other psychotherapists, clinics, day habilitation centers, intermediate care facilities for the mentally retarded, hospitals, schools, courts, group homes, or state agencies. The Division may deny or recover payment if the psychologist fails to provide to the Division, when requested, documented evidence that psychological testing was requested and actually provided.~~

411.410: Orders

The MassHealth agency pays a psychologist for psychological assessment when the following conditions are met:

(A) A qualified individual responsible for providing services to the member orders the psychological assessment. This ensures that the service is provided within the context of an overall service plan. A qualified individual includes a physician, psychologist, physician assistant, nurse practitioner, clinical nurse specialist, psychiatric clinical nurse specialist, or licensed independent clinical social worker who is either practicing independently, or as staff of a community health center, mental health center or hospital. Any other individual or entity wishing to order psychological assessment (such as therapists or other staff at clinics, day habilitation centers, intermediate care facilities for individuals with intellectual disabilities, hospitals, schools, courts, group homes, or state agencies) must coordinate with a qualified individual to obtain the necessary order.

(B) Upon request by the MassHealth agency, the provider must provide documentation that psychological assessment was initiated and provided in accordance with 130 CMR 411.410(A)(1). The MassHealth agency may deny or recover payment if the provider fails to provide such documentation to the MassHealth agency when requested.

(C) The MassHealth agency pays a psychologist for psychological assessment for the purposes of determining or redetermining eligibility for the EAEDC Program pursuant to 130 CMR 450.106: *Emergency Aid to the Elderly, Disabled and Children Program*, only if a physician or qualified individual on the staff of a community health center orders such assessment.

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411.412: Procedures for Psychological ~~Testing~~Assessment

As a prerequisite to payment, the psychologist must:

- (A) interact directly with the member during ~~testing~~assessment, with the exception noted in 130 CMR 411.414(DG);
- (B) personally administer and score the test, with the exception noted in 130 CMR 411.414(DG);
- (C) personally evaluate the responses to the test;
- (D) write a report of the evaluation results in a manner that communicates useful information to the individual or agency ~~requesting~~ordering such ~~testing~~assessment; and
- (E) forward a copy of the comprehensive report to the ~~referring~~ordering individual or agency without additional charge to the ~~Division~~MassHealth agency, ~~requesting~~ordering individual or agency, or member.

411.413: Record~~k~~-Keeping Requirements

(A) Payment for any service listed in 130 CMR 411.000 is conditioned upon its full and complete documentation in the member's medical record. The psychologist must maintain an ~~an electronic or hard copy~~ record (~~chart or folder~~) of all ~~psychology~~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 psychological services, the ~~record must be identified by the name of the member and the date or dates of testing.~~ 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 services, including date of initial contact;
- (2) the ~~referral~~ordering source, if applicable;
- (3) the reason for the ~~referral~~order or visit;
- (4) For psychological assessments, the record must also contain the following:(3) ~~for a personality evaluation or an assessment of organic mental disorders,~~
 - (a) a brief description of behavioral observations, and any ~~other~~relevant personal information elicited during ~~testing~~assessment;
 - (b)(4) the ~~original protocol~~of responses to all psychological assessments completedthe tests used;
 - (c) (5) a summary of scores; and
 - (d) (6) a comprehensive written report describing the psychological ~~evaluation~~ assessment and interpretation of responses; and
 - (e) documentation of compliance with the requirements of 130 CMR 411.412.
- (5) For psychological treatment services, the record must also contain the following:
 - (a) 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;
 - (b) the name and address of the member's primary care physician or, if not available, another physician who has treated the member;
 - (c) the member's description of the problem, and any additional information from other sources, including the referral source, if any;

- (d) the events precipitating contact with the psychologist;
- (e) the relevant medical, psychosocial, educational, and vocational history;
- (f) a comprehensive diagnostic services evaluation of the member at intake and semi-annually thereafter;
- (g) the clinical impression of the member and a diagnostic formulation, including a specific diagnosis using standard nomenclature;
- (h) a listing of realistic long-range goals, and a time frame for their achievement;
- (i) a listing of short-term objectives, which must be established in such a way as to lead toward accomplishment of the long-range goals;
- (j) the proposed schedule of therapeutic activities necessary to achieve such goals and objectives and the responsibilities of each individual member of the interdisciplinary team;
- (k) a schedule of dates for utilization review to determine the member's progress in accomplishing goals and objectives;
- (l) a written record of quarterly reviews by the psychologist, which relate to the short- and long-range goals;
- (m) all information and correspondence regarding the member, including appropriately signed and dated consent forms;
- (n) a medication-use profile;
- (o) 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
- (p) for members under 21 years of age, a CANS completed during the initial behavioral health assessment and updated at least every 90 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 ~~Division~~ MassHealth agency or the U.S. Department of Health and Human Services for the purpose of monitoring the provision of services in accordance with 130 CMR 411.000.

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411.414: Service Limitations

(A) Frequency of Psychological Testing/Assessment. The ~~Division~~ MassHealth agency does not pay for a psychological ~~test~~ assessment if the psychologist or another MassHealth provider has provided ~~that test~~ the same type of psychological assessment (intelligence, neuropsychological, or personality) to the member within the preceding six months, unless the ~~psychologist attaches a report to the claim documenting the presence of one of the following conditions exist and are documented in the billing provider's medical record; listed below.~~ psychologist attaches a report to the claim documenting the presence of one of the following conditions exist and are documented in the billing provider's medical record; listed below. In the cases of 130-CMR 411.414(A)(1) or (2), the Division pays for only one repetition of the same test in a six-month period.

- (1) Psychological assessment is provided in order to ascertain changes relating to suicidal, homicidal, traumatic, or neurological conditions of the member; or
- (2) Psychological assessment is provided in order to ascertain changes following specialized treatment or interventions such as electroconvulsive therapy (ECT) or inpatient psychiatric treatment.

(B) The MassHealth agency does not pay for the following types of psychological assessments:

- (1) periodic evaluation to measure the member's response to psychotherapy;
- (2) self-rating forms and other paper-and-pencil instruments, unless administered as part of a comprehensive battery of tests and interpreted by the psychologist; or
- (3) group forms of intelligence assessments.

(C) Psychological Assessment. The psychologist is eligible to receive payment for the psychological assessment when administered by a technician only if:

- (1) the technician is trained to perform the individual tests;
 - (2) the psychologist selects the specific tests to be included in the assessment;
 - (3) the technician performs the tests under the direct, personal, and continuous supervision of the psychologist who must assume professional responsibility for the tests performed; and
 - (4) the psychologist personally interprets the tests and writes the evaluation report.
- ~~)- The purpose of testing is to ascertain changes in the member following such special forms of treatment or intervention as electroconvulsive therapy or psychiatric hospitalization. Testing on a regular basis (for example, once monthly) to measure response to psychotherapy is not payable.~~
- ~~(2) The purpose of testing is to ascertain changes relating to suicidal, homicidal, toxic, traumatic, or neurological conditions.~~

~~(B) Selection of Psychological Tests.~~ The psychologist must determine the specific tests to administer, provided that the selection reflects a scope and intensity consistent with the requirements in 130-CMR 411.414(B)(1) and (2) and in 130-CMR 411.414(C) through (G).

- ~~(1) The tests must be published, valid, and in general use, as defined by listing in the *Mental Measurement Yearbook*, edited by Oscar Krisen-Buros, or by conformity to the Standards for Educational and Psychological Tests of the American Psychological Association.~~
- ~~(2) The Division does not pay a psychologist for self-rating forms and other paper-and-pencil instruments, unless they are administered as part of a comprehensive battery of tests. Only the self-rating forms listed in 130-CMR 411.414(C) through (G) are payable for purposes of evaluation.~~

~~(C) Intelligence Testing Only.~~ Unless clinically contraindicated due to hearing, physical, or visual impairment or linguistic challenges, intelligence testing must include either a full Wechsler

or Stanford-Binet scale. Group forms of intelligence tests are not payable.

~~(D) Personality Evaluation Only. A personality evaluation must consist of a battery of techniques in order to yield an adequate assessment of personality. Unless clinically contraindicated due to hearing, physical, or visual impairment or linguistic challenges, a record for a personality evaluation must contain the findings of at least two of the following types of tests or their age-appropriate equivalents: Rorschach, TAT (Thematic Apperception Test), TED (Tasks of Emotional Development), or MMPI (Minnesota Multiphasic Personality Inventory); and one or more of the following types of tests or their equivalents: figure drawing, Bender-Gestalt, or word association.~~

~~(E) Intellectual and Personality Evaluation. An intellectual and personality evaluation must consist of a battery of procedures selected in accordance with the requirements in 130 CMR 411.414(B) through (D).~~

~~(1) The Division does not pay a psychologist for a comprehensive intellectual and personality evaluation if the psychologist has provided intelligence testing only or a personality evaluation only to the member within the preceding six months.~~

~~(2) The Division does not pay a psychologist for intelligence testing only or a personality evaluation only if the same psychologist has provided a comprehensive intellectual and personality evaluation to the member within the preceding six months.~~

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(D) Diagnostic and Individual Treatment Services. The MassHealth agency pays for diagnostic and treatment services only when a psychologist, as defined by 130 CMR 411.000, personally provides these services to the member or the member's family. The services must be provided to the member on an individual basis.

(E) 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.

(F) 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.

(G) 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.

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

(I) 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.

(3) The Division will waive the restrictions in 130 CMR 411.414(E)(1) and (2) if the psychologist attaches a report to the claim documenting the presence of one of the conditions described in 130 CMR 411.414(A)(1) or (2).

~~(F) Assessment of Brain Damage.~~ Assessment of brain damage must consist of a battery of procedures in order to determine if a member is organically impaired. Unless clinically contraindicated due to hearing, physical, or visual impairment or linguistic challenges, a record for assessment of brain damage must contain the findings of a Wechsler Intelligence Scale and tests of recent memory, visual space perception, and other functions commonly associated with brain damage.

~~(G) Neuropsychological Examination.~~ Payment for the use of the Halstead-Reitan or Luria-Nebraska battery must be claimed under the service code for a neuropsychological examination if the battery is administered as the primary procedure to assess the presence of brain damage.

~~(1) The psychologist must submit a written report with the claim. This report must be sufficiently detailed to enable the Division to assess the extent and nature of the psychological test.~~

~~(2) The psychologist is eligible to receive payment for the neuropsychological examination~~

~~when a technician administers and scores it only if:~~

- ~~(a) the technician is trained to perform the tests;~~
 - ~~(b) the psychologist selects the specific tests to be included in the battery;~~
 - ~~(c) the technician performs the tests under the direct, personal, and continuous supervision of the psychologist who must assume professional responsibility for the tests provided; and~~
 - ~~(d) the psychologist personally interprets the tests and writes the evaluation report.~~
- ~~(3) The psychologist must claim an assessment of brain damage as a separate psychological testing service when it is administered as part of the preliminary screening for a neuropsychological examination.~~

REGULATORY AUTHORITY

130 CMR 411.000: M.G.L. c. 118E, §§7 and 12

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