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4. Program Regulations

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411.401: Introduction

All psychologists participating in MassHealth must comply with the regulations of the MassHealth agency, including, but not limited to, regulations set forth in 130 CMR 411.000 and 130 CMR 450.000: *Administrative and Billing Regulations*.

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 younger than 21 years old.

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

Developmental Assessment. The assessment of developmental status including the administration of developmental testing to assess fine and/or gross motor, language, cognitive-level, social, memory, and/or executive functions.

Developmental Testing. The assessment of fine and/or gross motor, language, cognitive-level, social, memory, and/or executive functions by standardized developmental instruments, which may include the interpretation and reporting of results.

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.

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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.

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.

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 Assessment. The use of standardized test instruments and procedures to evaluate aspects of a member's functioning. Psychological assessment includes intelligence, neuropsychological, developmental, 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.

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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.

411.403: Eligible Members

(A) (1) MassHealth Members. The 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 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.

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.

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(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

The MassHealth agency pays for medically necessary services personally provided by an eligible psychologist, subject to the restrictions and limitations in 130 CMR 411.000.

(A) The MassHealth agency pays for medically necessary services provided in any suitable location, such as the psychologist's office, the member's place of residence, 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;
 - (c) neuropsychological assessment; and
 - (d) developmental testing.
- (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.

411.407: Nonpayable Circumstances

The 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 MassHealth agency's rate of payment for that facility.

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(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 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.

411.408: Maximum Allowable Fees

The 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*. The fees include payment for the complete cost of psychological assessments of the member including scoring the test, interpreting the results, 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 EOHHS fee schedule.

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.

411.410: Orders

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

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(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). 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 Assessment

As a prerequisite to payment, the psychologist must:

- (A) interact directly with the member during assessment, with the exception noted in 130 CMR 411.414(C);
- (B) personally administer and score the test, with the exception noted in 130 CMR 411.414(C);
- (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 ordering such assessment; and
- (E) forward a copy of the comprehensive report to the ordering individual or agency without additional charge to the MassHealth agency, ordering individual or agency, or member.

411.413: Recordkeeping 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 electronic or hard copy record of all 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 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 ordering source, if applicable;
 - (3) the reason for the order or visit;
 - (4) For psychological assessments, the record must also contain the following:
 - (a) a brief description of behavioral observations, and any relevant personal information elicited during assessment;
 - (b) the original responses to all psychological assessments completed;
 - (c) a summary of scores;
 - (d) a comprehensive written report describing the psychological 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;

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- (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 younger than 21 years old, 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 411.000.

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411.414: Service Limitations

(A) Frequency of Psychological Assessment. The MassHealth agency does not pay for a psychological assessment if the psychologist or another MassHealth provider has provided the same type of psychological assessment (intelligence, neuropsychological, developmental, or personality) to the member within the preceding six months, unless the following conditions exist and are documented in the billing provider's medical record:

- (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.

(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.

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(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 delivered in person or *via* telephonic or audio-visual methods only when written communication alone, 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.

REGULATORY AUTHORITY

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