

## **Frequently Asked Questions Approaches to Integrated Care**

These Frequently Asked Questions (FAQs) issued by the New York State Department of Health (DOH), the New York State Office of Mental Health (OMH) and the New York State Office of Alcoholism and Substance Abuse Services (OASAS) will provide guidance to providers that wish to integrate primary care and mental health and/or substance use disorder (behavioral health) services. The FAQs cover the following approaches:

- Licensure Thresholds
- DSRIP Project 3.a.i Licensure Threshold
- Integrated Outpatient Services Regulations
- Collaborative Care
- Multiple Licenses

### **INTEGRATED CARE**

**1. Q. Why is integration of primary care and behavioral health (mental health and/or substance use disorder) services important?**

Health care providers have long recognized that many patients have multiple physical and behavioral health care needs, yet services have traditionally been provided separately. The integration of primary care mental health and/or substance use disorder services can help improve the overall quality of care for individuals with multiple health conditions by treating the whole person in a more comprehensive manner.

### **LICENSURE THRESHOLDS**

**2. Q. What are Licensure Thresholds?**

- A. A licensed or certified outpatient provider may add primary care, mental health and/or substance use disorder services under a single license or certification without any additional licenses or certifications, as long as the service to be added does not exceed the applicable Licensure Threshold.
- A clinic site licensed by DOH pursuant to PHL Article 28 must also be licensed by OMH if it provides more than 10,000 annual mental health visits, or if more than 30 percent of its annual visits are for mental health services.

- A clinic site licensed by OMH pursuant to MHL Article 31 or certified pursuant to MHL Article 32 must also be licensed by DOH if more than 5 percent of its visits are for medical services or any visits are for dental services.

Licensure Thresholds are not currently applicable for substance use disorder services; OASAS certification is required if a clinic licensed by DOH or OMH wishes to provide any substance use disorder services.

The provider that integrates services under the applicable Licensure Threshold must follow the programmatic standards of its licensing agency.

More information can be found here:

[http://www.health.ny.gov/press/releases/2008/2008-03-04\\_con\\_reform\\_ambulatory\\_care\\_services.htm](http://www.health.ny.gov/press/releases/2008/2008-03-04_con_reform_ambulatory_care_services.htm).

**3. Q. What is the application process to integrate services under the Licensure Thresholds?**

- A. The provider does not need to submit an application to add services as long as the number of visits does not exceed the relevant Licensure Thresholds.

**4. Q. Which state agency is responsible for oversight of the provider that integrates services under the Licensure Thresholds?**

- A. The state agency that licensed or certified the provider is responsible for regulatory oversight of the provider.

**DSRIP PROJECT 3.a.i LICENSURE THRESHOLD**

**5. Q. What is the DSRIP Project 3.a.i Licensure Threshold?**

- A. A licensed or certified provider that is part of DSRIP Project 3.a.i may integrate primary care, mental health and/or substance use disorder services under a single license or certification as long as the service to be added is not more than 49 percent of the provider's total annual visits ("DSRIP Project 3.a.i Licensure Threshold") and the patient initially presents to the provider for a service authorized by such provider's license or certification.

A licensed or certified provider is part of DSRIP Project 3.a.i if it is responsible for implementing one of the Project's models as identified in the PPS's implementation plan (*i.e.*, Model 1 (PCMH), Model 2 (BH), Model 3 (IMPACT)).

The provider that integrates services under the DSRIP Project 3.a.i Licensure Threshold must follow the programmatic standards of its licensing agency and the supplemental requirements for added service(s) as outlined in the DSRIP Licensure Threshold Guidance, which can be found here:

[https://www.health.ny.gov/health\\_care/medicaid/redesign/dsrp/regulatory\\_waivers/licensure\\_threshold\\_guidance.htm](https://www.health.ny.gov/health_care/medicaid/redesign/dsrp/regulatory_waivers/licensure_threshold_guidance.htm).

- 6. Q. If a licensed or certified provider wishes to integrate services and is a PPS provider partner as identified on the PPS Performance Network List but is not involved in Project 3.a.i, can the provider use this approach?**
- A. No. This approach exists specifically to advance the integration of primary care and behavioral health services as part of DSRIP Project 3.a.i. The PPS Lead is responsible for identifying which provider partners in its network (including their sites) will be pursuing which DSRIP Project 3.a.i model(s), as identified in its implementation plan (*i.e.*, Model 1 (PCMH), Model 2 (BH) or Model 3 (IMPACT)). These providers may submit an application for the participating sites as described in FAQ #8.
- 7. Q. Is a PHL Article 28 licensed provider licensed in a category other than primary care, able to add behavioral health services under the DSRIP Project 3.a.i Licensure Threshold?**
- A. No. This approach exists specifically to advance the integration of primary care and behavioral health services as part of DSRIP Project 3.a.i and only a provider that is part of Project 3.a.i as explained in FAQ #6 and is licensed by DOH pursuant to PHL Article 28 in primary care (*i.e.*, operating certificate should list “medical services – primary care”) may apply.
- 8. Q. What is the application process if a provider wishes to integrate services under the DSRIP Project 3.a.i Licensure Threshold?**
- A. The provider must submit an application to and receive approval from the agency that licensed or certified the provider site.
- A provider licensed by DOH pursuant to PHL Article 28 seeking to add behavioral health services must submit a Certificate of Need (CON) application or a Limited Review Application (LRA) through NYSE-CON. A separate application is required for each site.
  - A provider licensed by OMH pursuant to MHL Article 31 seeking to add primary care or substance use disorder services or certified by OASAS pursuant to MHL Article 32 seeking to add primary care or

mental health services must submit the “DSRIP Project 3.a.i Licensure Threshold Application.” The provider can include all the sites that wish to integrate services on a single application.

The application documents and instructions can be found here:  
[https://www.health.ny.gov/health\\_care/medicaid/redesign/dsrp/regulatory\\_waivers/draft\\_appl\\_instructions.htm](https://www.health.ny.gov/health_care/medicaid/redesign/dsrp/regulatory_waivers/draft_appl_instructions.htm).

**9. Q. Does a PPS provider partner that wishes to integrate services under the DSRIP Project 3.a.i Licensure Threshold need to be affiliated with a health home?**

A. A licensed or certified outpatient provider that wishes to integrate services under the DSRIP Project 3.a.i Licensure Threshold does not need to be affiliated with a health home in order to apply, as it would for participation under the integrated outpatient services regulations.

However, PPSs, as well as their network partners participating in Project 3.a.i, should keep in mind that a requirement of DSRIP is to have Health Homes participating in the network. Health Homes include former targeted case management (TCM) providers who specialized in behavioral health populations. Health Homes should be a resource for care management in any project involving behavioral health services.

**10. Q. If a licensed or certified provider is part of DSRIP Project 3.a.i and wishes to integrate services but does not anticipate exceeding the applicable “Licensure Threshold,” does the provider still need to submit an application?**

A. No. However, a provider may not provide services or bill Medicaid for any service rendered above the applicable Licensure Threshold unless the appropriate approval is in place. Therefore, when a provider approaches the Licensure Threshold, the provider should consider seeking approval from the relevant state agency to add services above the Licensure Thresholds up to the DSRIP Project 3.a.i Licensure Threshold, if applicable. As always, the provider also would have the option of integrating services by either seeking a second license for a particular site or integrating services under the integrated outpatient services regulations, if applicable (see 10 NYCRR Part 404, 14 NYCRR Part 598 and 14 NYCRR Part 825).

- 11. Q. If a PPS provider is approved to integrate services under the DSRIP Project 3.a.i Licensure Threshold, does the provider need to meet all the requirements of the integrated outpatient services regulations as well?**
- A. In addition to following the programmatic standards of its licensing agency, the provider needs to meet the prescribed requirements of the integrated outpatient services regulations as outlined in the DSRIP Licensure Threshold Guidance, which can be found here:  
[https://www.health.ny.gov/health\\_care/medicaid/redesign/dsrip/regulatory\\_waivers/licensure\\_threshold\\_guidance.htm](https://www.health.ny.gov/health_care/medicaid/redesign/dsrip/regulatory_waivers/licensure_threshold_guidance.htm)
- 12. Q. How is a provider supposed to define a visit for purposes of calculating the DSRIP Licensure Threshold?**
- A. The DSRIP Licensure Threshold Calculation Methodology will be available soon. Please continue to watch the webpage, which can be found here:  
[https://www.health.ny.gov/health\\_care/medicaid/redesign/dsrip/regulatory\\_waivers/draft\\_appl\\_instructions.htm](https://www.health.ny.gov/health_care/medicaid/redesign/dsrip/regulatory_waivers/draft_appl_instructions.htm)
- 13. Q. What happens when a provider approaches the 49 percent threshold for the added service?**
- A. The provider has the option of integrating services by either seeking a second license for a particular site or integrating services under the integrated outpatient services regulations (see 10 NYCRR Part 404, 14 NYCRR Part 598 and 14 NYCRR Part 825), if applicable. A provider that elects to integrate services under the integrated outpatient services regulations will need to comply with all applicable provisions under the regulations.
- 14. Q. Which state agency is responsible for oversight of a provider that integrates services under the DSRIP Project 3.a.i Licensure Threshold?**
- A. The state agency that licensed or certified the provider is responsible for regulatory oversight of the provider.
- 15. Q. What happens to a provider that integrates services under the DSRIP Project 3.a.i Licensure Threshold at the end of the DSRIP program?**
- A. This approach is limited to the life of the DSRIP program. As eligible providers take advantage of this approach, the state agencies will be able to assess the effectiveness of this approach is effective and decide whether to pursue its continuation, with any appropriate adjustments.

**16. Q. How is 42 CFR Part 2 applicable to providers in DSRIP projects that seek to offer substance use disorder treatment services?**

- A. The federal confidentiality law, 42 CFR Part 2, controls the privacy of, access to and maintenance of patient records of federally funded alcohol and drug abuse providers. This would include any provider under DSRIP that seeks to add substance use disorder treatment services. A provider who provides substance use disorder treatment under any of the integrated services models, including DSRIP thresholds, must comply with these rules. Accordingly, a provider licensed by DOH pursuant to PHL Article 28 or by OMH pursuant to MHL Article 31 that delivers substance use disorder services must comply with 42 CFR Part 2.

## **INTEGRATED OUTPATIENT SERVICES REGULATIONS**

**17. Q. How does a provider add services under the integrated outpatient services regulations?**

- A. An outpatient provider that is licensed or certified by more than one agency may add primary care, mental health and/or substance use disorder services at one of its sites without having to obtain an additional license or certification, as long as it is licensed or certified to provide such services at another location.

There are three models:

- Primary Care Host Model
- Mental Health Behavioral Care Host Model
- Substance Use Disorder Behavioral Care Host Model

The “host site” is the single outpatient site at which a provider who is licensed or certified by DOH, OMH or OASAS is approved to provide integrated services as prescribed under the regulations.

The provider that integrates services under the integrated outpatient services regulations must follow the programmatic standards of the licensing agency that licensed the “host site” and follow supplemental requirements for added service(s) as outlined in the regulations.

- DOH licensed providers (10 NYCRR Part 404);
- OMH licensed providers (14 NYCRR Part 598); and
- OASAS certified providers (14 NYCRR Part 825).

Guidance regarding the integrated outpatient services regulations is available at:

<http://www.oasas.ny.gov/legal/CertApp/documents/IOSGuid.pdf>.

- 18. Q. Are the integrated outpatient services regulations limited to DSRIP providers?**
- A. No. The regulations are applicable to any eligible licensed or certified provider. However, a provider in a PPS network that is part of Project 3.a.i may opt to proceed under the integrated outpatient services regulations if otherwise eligible and may wish to do so, for example, if it wishes to offer an additional type of services above the 49 percent DSRIP Project 3.a.i Licensure Threshold.
- 19. Q. Is a specialty care provider, e.g., a provider licensed by DOH pursuant to PHL Article 28 in a category other than primary care, able to add mental health and/or substance use disorder services under the integrated outpatient services regulations?**
- A. No. This approach exists specifically to advance the integration of primary care, mental health and substance use disorder services and only a provider licensed by DOH pursuant to PHL Article 28 in primary care (i.e., operating certificate that lists “medical services – primary care”) may apply.
- 20. Q. The integrated outpatient services regulations require the applicant to be a member of a health home designated by the Commissioner of Health. What information is required?**
- A. The applicant must indicate the Health Home Lead for which the applicant is a network partner as identified on the Network Health Home Partner List ([https://www.health.ny.gov/health\\_care/medicaid/program/medicaid\\_health\\_homes/contact\\_information/county\\_list.htm](https://www.health.ny.gov/health_care/medicaid/program/medicaid_health_homes/contact_information/county_list.htm)). If an applicant is not on the list, the applicant may provide other documentation of its affiliation with a health home (e.g., copy of contract, MOU, etc. between applicant and the Health Home Lead).
- 21. Q. What is the application process under the integrated outpatient services regulations?**
- A. The provider must submit an application to and obtain approval from the state agency that licensed the “host site.”
- A provider licensed by DOH pursuant to PHL Article 28 seeking to add mental health and/or substance use disorder services must

submit a CON application or LRA through NYSE-CON. A separate application is required for each site.

- A provider licensed pursuant to MHL Article 31 seeking to add primary care or substance use disorder services or a provider certified pursuant to MHL Article 32 seeking to add primary care or mental health services must submit the “Integrated Services Application” available on the OMH and OASAS websites. A separate application is required for each site.

The application instructions and documents can be found here:

- DOH Application Instructions (Primary Care Host Model):  
[https://www.health.ny.gov/facilities/cons/limited\\_review\\_application/ra\\_instructions\\_outpatient.htm](https://www.health.ny.gov/facilities/cons/limited_review_application/ra_instructions_outpatient.htm)
- OMH Application Instructions (Mental Health Behavioral Care Host Model):  
[https://www.omh.ny.gov/omhweb/clinic\\_restructuring/integrated-services.html](https://www.omh.ny.gov/omhweb/clinic_restructuring/integrated-services.html)
- OASAS Application Instructions (Substance Use Disorder Behavioral Care Host Model):  
<https://www.oasas.ny.gov/legal/CertApp/capphome.cfm>

**22. Q. Which state agency is responsible for regulatory oversight of the licensed or certified provider that integrates services under the integrated outpatient services regulations?**

- A. The state agency responsible for regulatory oversight of the provider at a host site is the agency that initially licensed or certified the host site:
- Primary Care Host Model – DOH
  - Mental Health Behavioral Care Host Model – OMH
  - Substance Use Disorder Behavioral Care Host Model – OASAS

**23. Q. Under the Mental Health Behavioral Care Host Model, is the host provider limited in the range of primary care services that may be provided by the APG rate codes (i.e., health assessments and health monitoring)?**

- A. No. Any provider licensed by OMH pursuant to MHL Article 31 may offer health physicals and health monitoring as optional services. For more information about services that can be billed under the mental health behavioral care host model, please see the Integrated Outpatient Services – Implementation Guidance, which can be found here:  
<http://www.oasas.ny.gov/legal/CertApp/documents/IOSGuid.pdf>.

**24. Q. How is 42 CFR Part 2 applicable to primary care host and mental health behavioral care host providers that offer substance use disorder treatment services?**

- A. The federal confidentiality law, 42 CFR Part 2, controls the privacy of, access to and maintenance of patient records of federally funded alcohol and drug abuse providers. This would include primary care host and mental health behavioral care host providers of substance use disorder treatment services.

A provider who provides substance use disorder treatment under any of the integrated services models, including the integrated outpatient services regulations, must comply with these rules. Accordingly, a PHL Article 28 or MHL Article 31 licensed provider that adds substance use disorder services must comply with 42 CFR Part 2.

**25. Q. Can a provider certified by OASAS pursuant to MHL Article 32 be approved to add primary care services pursuant to the integrated outpatient regulations provide primary care services to other Opioid Treatment Programs (OTP a/k/a MMTP) within the same organization?**

- A. Under the substance use disorder behavioral care host model, the OASAS certified provider is only allowed to provide primary care services at the approved host site and may not provide primary care services at an OTP program operated by the same provider at another site without approval. A separate application must be submitted for each OASAS certified site so that it may be separately considered for approval as a host site before it is able to add primary care services.

**26. Q. Since nurse practitioners are recognized as independent practitioners in New York State, can they be licensed to prescribe buprenorphine?**

- A. No. Under the federal Drug Addiction Treatment Act (DATA) of 2000, only *qualifying physicians* who receive a *waiver* from the special registration requirements in the Controlled Substances Act are able to practice medication-assisted opioid addiction therapy with Schedule III, IV, or V narcotic medications specifically approved by the Food and Drug Administration (FDA).

The term "qualifying physician" is specifically defined in DATA 2000 as a provider meeting all of the following conditions: a physician who is licensed under State law, has a DEA registration number to dispense controlled substances, has the capacity to refer patients for counseling and ancillary services, will treat no more than 30 such patients at any one time, and is qualified by certification, training, and/or experience to treat opioid addiction.

**27. Q. How often is utilization review (UR) of services needed as required under 14 NYCRR 598.11(a)(2)(iii)(e) and 14 NYCRR 825.(a)(2)(iii)(e) of the integrated outpatient services regulations?**

- A. The integrated outpatient services regulations state that utilization reviews must be conducted for all active cases within the twelfth month after admission and every 90 days thereafter.

This is an increase from the utilization review requirements under OMH's Clinic Treatment Programs regulation (14 NYCRR Section 599.6(l)(2)), which allows for a review of the need for continued treatment in a clinic treatment program within seven months after admission and every six months thereafter. For MHL Article 31 licensed providers operating under the mental health behavioral care host model, OMH will consider a regulatory waiver request pursuant to 14 NYCRR Part 501 to allow flexibility with respect to the frequency of the performance of utilization reviews. OMH is willing to consider a six-month review, consistent with 14 NYCRR Part 599, as the standard in certain cases, if the clinic provider adheres to the requirements of such Part with respect to utilization review, as well as all other pertinent regulatory provisions found in 14 NYCRR Parts 598 and 599.

For MHL Article 32 licensed providers operating under the substance use disorder behavioral care host model, the MHL Article 32 certified provider only needs to follow the utilization review requirements under 14 NYCRR Part 822. However, the provider must submit a request pursuant to Mental Hygiene Law using the OASAS PAS-10 form to waive 14 NYCRR § 825(a)(2)(iii)(e). The PAS-10 form can be found here: <http://oasas.ny.gov/mis/forms/pas/documents/pas-10.pdf>.

Under the primary care host model, utilization review must be conducted for all active cases within the twelfth month after admission and every 90 days thereafter.

**28. Q. How does the new deeming law in effect in outpatient mental health and substance use disorder settings interact with the survey process for integrated services providers?**

- A. Via the new deeming law, with respect to OMH services, the Joint Commission (TJC) will add a surveyor with knowledge and experience in behavioral health to the hospital survey team to conduct the survey of the outpatient program. OASAS is likewise working on a plan to allow deeming in hospital-based certified outpatient clinics. Once the joint-agency "Integrated Services Surveillance Tool" is finalized, it will be shared with the TJC to be incorporated within their outpatient surveillance functions.

**29. Q. What will the fiscal viability review for integrated services clinics involve?**

- A. Fiscal viability reviews will be conducted for mental health and substance use disorder behavioral care host sites. The review will include the host site's most recent financial statements and an assessment of whether assets are sufficient relative to liabilities. The outcome of the review will be a determination as to whether the provider's current fiscal health precludes the clinic from sustaining the provision of integrated outpatient services pursuant to the integrated outpatient services regulations.

**COLLABORATIVE CARE**

**30. Q. What is Collaborative Care?**

- A. Collaborative Care is an evidence-based model of behavioral health integration for detecting and treating common mental health conditions such as depression and anxiety in primary care settings. Collaborative Care focuses on defined patient populations tracked in a registry, measurement-based treatment to target. Trained primary care providers and embedded behavioral health professionals provide evidence-based medication and/or psychosocial treatments, supported by regular psychiatric case consultation and treatment adjustment for patients who are not improving as expected.

**31. Q. What is the New York State Medicaid Collaborative Care program?**

- A. The New York State Medicaid Collaborative Care Program was set up to sustain the work of practices that had implemented Collaborative Care as a part of the DOH Hospital Medical Home Demonstration project which ended in 2014. The Medicaid program provides a monthly case rate payment per patient to practices that are enrolled in this program, as well as ongoing technical assistance and training to the sites.

**32. Q. Who are the participants in the Medicaid Collaborative Care Program?**

- A. Participants in the New York State Medicaid Collaborative Care Program are primarily those that had participated in the Medical Home Demonstration Project and are Article 28 academic medical center-affiliated primary care practices. The program also includes some federally qualified health centers (FQHCs).

**33. Q. What is the application process for participating in the Collaborative Care initiative?**

A. Currently, the New York State Medicaid Collaborative Care Program is not accepting new practices.

**34. Q. Who is responsible for oversight under the Collaborative Care initiative?**

A. OMH oversees sites participating in the New York State Medicaid Collaborative Care Program. They are required to report data to OMH and meet certain quality outcome standards.

**35. Q. What is the difference between Collaborative Care and the IMPACT model?**

A. IMPACT is a brand name for the Collaborative Care model. It was called IMPACT in the initial study done on the model which was limited to depression in older adults aged 55 and over, but has since been shown to be effective in treating other conditions, such as anxiety, and in populations other than the Medicare population. OMH uses the broader term “Collaborative Care” to describe the model, which is not limited to a particular study, but it is still commonly known as IMPACT as reflected in the DSRIP project.

**36. Q. How can a provider implement the IMPACT model as part of DSRIP Project 3.a.i?**

A. A PPS must have initially selected the IMPACT model as part of its 3.a.i project selection to obtain the project achievement value. For providers, there are many resources available to sites implementing Collaborative Care as a part of DSRIP. DSRIP funding can be used to support education and training from consultants and other technical assistance providers in order to build the team and implement the model. It has been shown to be cost effective by saving money from emergency room usage and hospital readmissions and admissions, and also by improving efficiencies within the practice. The DSRIP program has many resources available including the MAX series on Behavioral Health integration. OMH also encourages sites to partner with other sites in the PPS that are implementing Collaborative Care to learn from their experiences. A PPS and/or its network providers which are not implementing the IMPACT model may want to consider it as part of a future strategy in the context of Value Based Payment given its evidence of improving outcomes and overall impact on medical utilization.

The University of Washington AIMS Center is an excellent source for information on the principles of Collaborative Care and provides a guide to implementation. Information is available at:

<http://aims.uw.edu/collaborative-care>

**37. Q. Are there plans to grow/expand the Collaborative Care program?**

- A. At this time, the New York State Medicaid Collaborative Care Program is not accepting new practices. The goal of the program is to gain support for the model in New York State and demonstrate the efficacy of this funding mechanism. A robust evaluation of this program will serve to inform the next iteration of Collaborative Care financing in NYS, as payers transition to Value Based Payment arrangements in the next few years. In addition to the Medicaid Collaborative Care program, efforts are ongoing to enlist commercial payer support of behavioral health integration and Collaborative Care are integral parts of the Advanced Primary Care (APC) standards that practices will begin to implement in 2016. Practice transformation funding and support is available for practices carrying out APC.

## **MULTIPLE LICENSES**

**38. Q. How can a provider integrate services using multiple licenses?**

- A. A provider may opt to pursue the integration of primary care, mental health and/or substance use disorder services by obtaining a license or certificate from each licensing agency (DOH, OMH or OASAS), as appropriate. This is an option, for example, if the provider wishes to exceed the Licensure Thresholds but is not eligible under the integrated outpatient services regulations or does not qualify to use the DSRIP Project 3.a.i Licensure Threshold approach, or wishes to exceed the 49 percent DSRIP Project 3.a.i Licensure Threshold. If two or more licenses/certifications are obtained, the provider must follow the programmatic standards of each licensing agency, as appropriate.
- DOH regulations, including 10 NYCRR Parts 401 and 751, can be found here: <https://www.health.ny.gov/regulations/>
  - OMH regulations can be found here: [https://www.omh.ny.gov/omhweb/clinic\\_restructuring/part599/599\\_text.full.1.9.13.pdf](https://www.omh.ny.gov/omhweb/clinic_restructuring/part599/599_text.full.1.9.13.pdf)
  - OASAS regulations can be found here: <https://www.oasas.ny.gov/regs/index.cfm>

**39. Q. What is the application process for a provider that wishes to integrate services using multiple licenses?**

- A. The provider must submit an application to and obtain approval from each licensing agency, as appropriate.
- DOH: Certificate of Need (CON) Application or Limited Review Application. More information can be found here: <https://www.health.ny.gov/facilities/cons>.
  - OMH: Prior Approval Review (PAR) or EZ PAR Application. More information can be found here: <http://www.omh.ny.gov/omhweb/par/>.
  - OASAS: Certification Application. More information can be found here: <http://oasas.ny.gov/legal/CertApp/capphome.cfm>.

**40. Q. When a provider has multiple licenses, which state agency is responsible for oversight?**

- A. Each state agency that licenses or certifies the provider is responsible for oversight of its agency's regulatory standards.

## TELEHEALTH

**41. Q. Do the integrated outpatient services regulations cover services provided through telemedicine?**

- A. A provider licensed by OMH pursuant to MHL Article 31 under the mental health behavioral care host model has the ability to utilize telepsychiatry for assessment and treatment services under existing OMH regulations.

OMH has issued regulations, effective February 11, 2015, establishing the basic standards and parameters for use of "telepsychiatry" in OMH-licensed clinic programs (14 NYCRR § 599.17). This regulation allows telepsychiatry to be utilized for assessment and treatment services provided by physicians or psychiatric nurse practitioners, from a site distant from the location of a recipient, where both the patient and the physician or nurse practitioner are physically located at clinic sites licensed by OMH (i.e., MHL Article 31 licensed clinic to MHL Article 31 licensed clinic).

"Telepsychiatry" is defined as the use of two-way real time-interactive audio and video equipment to provide and support clinical psychiatric care at a distance. Such services do not include a telephone conversation, electronic mail message or facsimile transmission between a clinic and a recipient, or a consultation between two professional or clinical staff.

OASAS is developing guidelines and protocols to support the use of telemedicine in OASAS certified programs, including substance use disorder behavioral care host models. More information will be available in the future.

**42. Q. Can a provider licensed by OMH pursuant to MHL Article 31 provide telepsychiatry services in conjunction with a provider licensed by DOH pursuant to PHL Article 28 that adds mental health services under the primary care host model or to a clinic certified by OASAS pursuant to MHL Article 32 that adds mental health services under the substance use disorder behavioral care host model?**

A. OMH is continually exploring options to expand the use of telepsychiatry. However, the agency seeks to do so in a manner that utilizes the technology to supplement, not supplant, the need for psychiatric services in areas where there is not only need but a shortage of psychiatry personnel. In short, when contemplating whether telepsychiatry can be used in an “integrated” setting, the answer is dependent upon exactly how the technology is being proposed to be used in such a setting. What OMH is most concerned with is that, since telepsychiatry can be cost-effective, providers may choose to employ this technology as a cost-saving measure before the behavioral health field knows if it is equivalent to in-person psychiatry in terms of its effectiveness. The factors for consideration by OMH would, therefore, include intent of use consistent with the delineated program standards, the need in the setting, and the status of psychiatry recruitment.

**43. Q. Is there a billing mechanism for tele-services provided by a clinic licensed by OMH?**

A. Once a provider licensed by OMH pursuant to MHL Article 31 has requested and received approval from OMH to provide telepsychiatry, pursuant to 14 NYCRR § 599.17, claims may be submitted for Medicaid fee-for-service and Medicaid managed care reimbursement if the clinic meets the requirements outlined in the “Telepsychiatry Standards Guidance” found here:

<http://www.omh.ny.gov/omhweb/guidance/telepsychiatry-guidance.pdf>

Medicaid Managed Care plans are currently required to reimburse clinics at the fee-for-service rates. This requirement will continue through at least the first two years of implementation of Health and Recovery Plans (HARPs) and the “carve-in” of all behavioral health services into mainstream Medicaid Managed Care plans.

The services eligible for Medicaid and Medicaid managed care reimbursement when provided using telepsychiatry are: Initial

Assessment, Psychiatric Assessment, Psychiatric Consultation, Crisis Intervention, Psychotropic Medication Treatment, Psychotherapy (Individual, Family, Group, and Family Group), Developmental Testing, Psychological Testing and Complex Care Management. Only physicians, psychiatrists and psychiatric nurse practitioners may deliver Medicaid fee-for-service and Medicaid managed care reimbursable telepsychiatric services.

Federal terms relevant for purposes of telepsychiatry reimbursement are “spoke” and “hub.” The term “spoke” refers to the physical location of the patient during a telepsychiatric service. The term “hub” means the physical location of the practitioner during a telepsychiatry service. To constitute a reimbursable service, the patient must be physically present at the clinic in which he/she is already enrolled or is presenting for assessment (*i.e.*, the “spoke”).

**44. Q. Do providers licensed by DOH pursuant to PHL Article 28 need approval from DOH to use telehealth modalities?**

- A. No. A PHL Article 28 licensed provider does not need to apply for permission from DOH to utilize telehealth. Telehealth modalities are viewed as another tool that providers can use to provide services under the existing category on their operating certificate. The New York State Medicaid Program provides coverage for services delivered via telehealth in some settings and by some provider types as described in FAQ #45 and FAQ #46. To obtain Medicaid reimbursement for services delivered via telehealth, an Article 28 provider must comply with Medicaid policy and billing guidance.

**45. Q. Is telehealth covered by New York State commercial insurers and the Medicaid Program?**

- A. Yes, in 2015, telehealth parity legislation was passed that requires commercial insurers and the Medicaid program to provide reimbursement for services delivered via telehealth to the same extent that services would be covered if provided in person. The legislation, which amended Public Health Law, Social Services Law, and Insurance Law, went into effect on January 1, 2016.

As defined in PHL Article 29-g, telehealth is the use of electronic information and communication technologies to deliver health care to patients at a distance, which includes the assessment, diagnosis, consultation, treatment, education, care management and/or self-management of a patient. Telehealth is limited to telemedicine (which includes telepsychiatry), store-and-forward, and remote patient monitoring.

**Telemedicine** allows a telehealth provider at a “distant site” to use synchronous, two-way electronic audio visual communications to deliver clinical health care services to a patient at an “originating site.”

**Store and forward technology** is the asynchronous, secure electronic transmission of a patient’s health information in the form of patient-specific digital images and/or pre-recorded videos from a telehealth provider at an originating site to a telehealth provider at a distant site.

**Remote patient monitoring** uses synchronous or asynchronous electronic information and communication technologies to collect personal health information and medical data from a patient at an “originating site”; this information is then transmitted to a provider at a “distant site” for use in treatment and management of unstable/uncontrolled medical conditions that require frequent monitoring. Such conditions shall include, but are not limited to, congestive heart failure, diabetes, chronic obstructive pulmonary disease, wound care, polypharmacy, mental or behavioral problems, and technology-dependent care such as continuous oxygen, ventilator care, total parenteral nutrition or enteral feeding. Remote patient monitoring must be ordered and provided by a physician, a nurse practitioner or a midwife, who has examined the patient and with whom the patient has a substantial and ongoing relationship. Patient specific health information and/or medical data may be received at a distant site by means of remote patient monitoring by a registered nurse, licensed pursuant to Education Law.

Providers eligible for reimbursement include physicians, physician assistants, dentists, nurse practitioners, podiatrists, optometrists, psychologists, social workers, speech pathologists, physical therapists, occupational therapists, audiologists, midwives, certified diabetes educators, certified asthma educators, genetic counselors, hospitals, home care, and hospices. In addition, a registered nurse may be reimbursed when receiving patient data by means of Remote Patient Monitoring (RPM).

Regulations related to Medicaid reimbursement under the telehealth reimbursement law are currently under development.

**46. Q. What telehealth services does Medicaid currently cover?**

- A. Telemedicine (defined as the use of interactive audio and video technology to support real-time patient care) has been covered by Fee for Service Medicaid in specific settings and by specific provider types since September 2006. Coverage was expanded in February 2010, October 2011 and March 2015 to enable greater access to specific provider types in short supply across New York State.

[http://www.health.ny.gov/health\\_care/medicaid/program/update/2015/mar15\\_mu.pdf](http://www.health.ny.gov/health_care/medicaid/program/update/2015/mar15_mu.pdf)

Regulations pertaining to Medicaid coverage of telehealth services are under development.

## OTHER

### **47. Q. Are there any other alternatives to support the integration of care?**

- A. Yes. Staff leasing agreements may be used to help facilitate the provision of integrated care. For example, a clinic licensed by DOH pursuant to PHL Article 28 that would like to provide mental health services could contract with a provider licensed by OMH pursuant to MHL Article 31 for clinical staff to furnish such services on its behalf. The DOH licensed clinic would reimburse the OMH licensed provider for services rendered. The DOH licensed clinic would be financially and legally responsible for the services provided by the OMH licensed provider staff. The DOH licensed clinic also would be the provider of record and responsible for submitting any claims for services rendered.

In addition, the agencies are working on guidance to be issued shortly for multiple providers that are interested in sharing licensed clinical space and carrying out programmatic activities for purposes of offering integrated services.

## BILLING

### **DSRIP Project 3.a.i Licensure Threshold**

### **48. Q. If a provider licensed by DOH pursuant to PHL Article 28 utilizes the DSRIP Project 3.a.i Licensure Threshold in development of a DSRIP project, can such provider provide the mental health and/or substance use disorder services (and bill) with a LMHC, LMFT, etc. as opposed to LCSW-R or PhD staff?**

- A. A practitioner providing mental health and/or substance use disorder services in a DOH licensed clinic must be a licensed psychiatrist, psychologist, psychiatric nurse practitioner, or an LCSW. Services provided by an LCSW in a DOH licensed clinic are limited to patients who are under age 21 or pregnant women up to 60 days postpartum (based on the date of delivery or end of pregnancy). Licensed mental health counselors, licensed marriage and family therapists, and PhD staff are not recognized providers in the PHL Article 28 licensed setting.

**49. Q. Under DSRIP, can a provider request a waiver of 10 NYCRR § 86-4.9 to allow for reimbursement of two visits on one day?**

A. No regulatory waiver will be provided. FQHCs that have not opted into APGs operate under the PPS rate. DOH sets the PPS rate using the methodology established under federal law. The PPS methodology, including the “per visit basis,” is established under federal law and DOH does not have the authority to waive federal rules.

**50. Q. How should an MHL Article 31 licensed provider bill for the provision of primary care services under the DSRIP Project 3.a.i. Licensure Threshold construct?**

A. New rate codes are being established for this purpose. This will involve changing the definition of the hospital-based rate codes 1110 and 1112 to say OMH – HOSP, rather than OMH – OPD to avoid confusion.

SETTING	STATE AGENCY	COS	RATE CODE DESCRIPTION	RATE CODE
DTC	OMH	0160	OMH DTC APG ART 31 INTEGRATED SVC (SINGLE LIC)	1106
HOSPITAL	OMH	0287	OMH OPD APG ART 31 INTEGRATED SVC (SINGLE LIC)	1110

**Integrated Outpatient Services Regulations**

**51. Q. Under the integrated outpatient services regulations, may a provider bill the current mental health patients with the OASAS rates as with the incoming patients seeking mental health services?**

A. A licensed or certified provider approved under the integrated outpatient services regulations to provide integrated care services will be issued an integrated services rate code that will be reimbursed through the APGs.

For all approved integrated services providers, Medicaid will eliminate the 10 percent APG discount for multiple behavioral health services provided on a single day. The 50 percent physical health APG discount will remain in place.

For approved mental health or substance use disorder behavioral care host providers, Medicaid will eliminate the multiple Evaluation and Management (E&M) consolidation logic so that when two E&Ms are billed (e.g., one for physical health and a second for behavioral health), the APG grouper/pricer will no longer package the second E&M into the APG payment. Medicaid will pay approved integrated service providers \$75 for the second E&M if modifier “27” is appended to the second E&M. It should be noted that in order for the second E&M to pay at least one non-

mental health and/or substance use disorder diagnosis code (e.g., ICD-9) will need to be included on the claim.

**52. Q. Under the integrated outpatient services regulations, will the mental health services be billable to Medicare under the OASAS billing guidelines?**

A. The integrated outpatient services regulations (10 NYCRR Part 404, 14 NYCRR Part 598 and 14 NYCRR 825) apply to Medicaid-only patients. When services are provided to a Medicare/Medicaid dually eligible patient, Medicaid is the secondary payor and defers to the Medicare coverage and payment policy. If the host site is a PHL Article 28 clinic, Medicaid will reimburse providers the lower of the difference between the Medicare paid amount and the Medicaid rate or the Medicare Part B coinsurance amount for integrated care services. If the host site is a MHL Article 31 or MHL Article 32 clinic, Medicaid will pay the difference between the Medicare payment and the Medicaid rate.

**53. Q. Under the integrated outpatient services regulations, should all mental health services be billed with all payer sources under the OASAS rates; i.e., Medicaid managed care, insurance, etc.?**

A. Medicaid is always the payor of last resort. Providers must bill all commercial insurance prior to billing Medicaid. Medicaid will pay the lower of the third party patient responsibility or the difference between the third party paid amount and the integrated services APG rate.

**54. Q. Are OMH behavioral health billing codes used in clinics licensed by DOH pursuant to PHL Article 28 the same as those used in the clinics licensed by OMH pursuant to MHL Article 31?**

A. As stated in the response to FAQ #51, approved integrated services providers are assigned APG Medicaid billing rate codes which are to be used by the integrated services provider at the host site.

**55. Q. If a provider licensed by DOH pursuant to PHL Article 28 has been approved to provide integrated services under 10 NYCRR Part 404, can such provider bill for behavioral health services provided by a nurse practitioner?**

A. A primary care host model provider approved to provide integrated care services may bill for behavioral health services provided by a nurse practitioner.

**56. Q. If a provider licensed pursuant to PHL Article 28 has been approved to add mental health services under 10 NYCRR Part 404, can such provider bill for group psychotherapy services?**

A. A primary care host model provider approved to deliver mental health services is reimbursed through APGs. The APG grouper reimburses for individual and group psychotherapy.

**57. Q. Under the integrated outpatient services regulations, does a provider licensed by DOH pursuant to PHL Article 28 need to be licensed by OMH in order to bill for mental health services?**

A. Upon DOH and OMH approval as an integrated services provider, the primary care host site can bill for mental health services. In the absence of approval to provide integrated care services, the provider licensed by DOH pursuant to PHL Article 28 is limited to the Licensure Thresholds described in FAQ #2.

**58. Q. Can a provider certified by OASAS pursuant to MHL Article 32 that has been approved to add mental health services under 14 NYCRR 825 bill for substance use disorder services provided by a licensed social worker?**

A. An OASAS certified provider that has been approved to add mental health services under 14 NYCRR 825 can bill for substance use disorder services provided by a licensed clinical social worker or licensed master social worker.

**59. Q. Do managed care contracts have to be individually negotiated with each company or are these requirements mandated?**

A. Providers treating patients who are in a managed care plan are subject to the contract terms and conditions that have been negotiated with the plan. Some plan contract terms are mandated terms that are the result of requirements in the contract between the state and MCOs (e.g. MCOs must pay OMH licensed and OASAS certified providers at the State rate.)

**60. Q. Are managed care plans required to follow both the clinical and billing regulations? If they don't, then what recourse do facilities have to remedy the situation?**

A. Managed care plans are bound by the terms contained in the contract they have with the state. If plans do not follow these requirements, providers and plan members should file all necessary appeals with the managed care plan.

- 61. Q. If group psychotherapy services can be billed by MHL Article 31 licensed providers, does that mean only an MD can provide these services?**
- A. Group psychotherapy services billed by a provider licensed by OMH pursuant to MHL Article 31 can be provided by any practitioner recognized under OMH regulations, e.g., licensed psychologist, licensed clinical social worker, licensed master social worker, licensed mental health counselor, etc.
- 62. Q. Per Medicare regulations, is a provider licensed by DOH pursuant to PHL Article 28 able to bill for mental health services provided by a licensed clinical social worker?**
- A. Medicaid will reimburse a provider licensed by DOH pursuant to PHL Article 28 for mental health services provided by a licensed clinical social worker provided to a Medicare/Medicaid dually eligible recipient to the extent permitted by cost sharing statute, i.e., Medicaid will pay full annual Medicare Part B deductible amounts and Medicare Part B coinsurance amounts up to the Medicaid rate.

### **Other Billing Questions**

- 63. Q. To what extent can a clinic licensed by DOH pursuant to PHL Article 28 bill for mental health services provided by licensed social workers?**
- A. Consistent with section 2807(2-a)(f)(ii)(c) of the Public Health Law (PHL), Medicaid reimbursement is available for individual mental health counseling services provided by a licensed clinical social worker (LCSW) or a licensed master social worker (LMSW) under the supervision of a LCSW, psychologist or psychiatrist in PHL Article 28 licensed outpatient hospital clinics (OPDs) and freestanding diagnostic and treatment centers (D&TCs), including school based health centers (SBHCs). Such services, however, are reimbursable only when provided to enrollees under the age of 21 and to pregnant women up to 60 days postpartum (based on the date of delivery or end of pregnancy). In order to qualify as a billable Medicaid service, claims for services rendered to pregnant women are required to have a primary or secondary diagnosis of pregnancy and claims for services rendered to women post-pregnancy are required to have a primary or secondary diagnosis of postpartum depression.

### **LCSW/LMSW Mental Health Counseling Medicaid Rate Codes**

Individual mental health counseling services provided by a LCSW or LMSW to enrollees under the age of 21 and to pregnant women up to 60

days postpartum (based on the date of delivery or end of pregnancy) should be billed under the following rate codes (not APGs):

- 4257 (SBHCs 3257) Individual Brief Counseling (psychotherapy which is insight oriented, behavior modifying and/or supportive, approximately 20-30 minutes face-to-face with the patient).
- 4258 (SBHCs 3258) Individual Comprehensive Counseling (psychotherapy which is insight oriented, behavior modifying and/or supportive, approximately 45-50 minutes face-to-face with patient).
- 4259 (SBHCs 3259) Family Counseling (psychotherapy with or without patient).

### **Applicability**

This policy applies to PHL Article 28 licensed outpatient providers that integrate services under the Licensure Thresholds, DSRIP Project 3.1.i Licensure Threshold or the integrated outpatient services regulations.

### **Exceptions**

Population limits placed on Medicaid reimbursement for mental health counseling provided by LCSWs or LMSWs are not applicable to:

- **Dually Licensed Clinics:** A dually licensed PHL Article 28 licensed clinic is a clinic that also possesses a MHL Article 31 license and has the appropriate certification listed on its operating certificate (i.e., “Certified Mental Health O/P”). This certification means that the operator also possesses an MHL Article 31 operating certificate from OMH for the site and is permitted to render any service and/or serve any population authorized under its MHL Article 31 license. A dually licensed provider should bill APGs utilizing Current Procedure Terminology (CPT) codes instead of LCSW/LMSW mental health counseling Medicaid rate codes.
- **Federally Designated Health Clinics:** A federally designated health clinic means a Federally Qualified Health Center (FQHC), a FQHC “look-alike” (a clinic that meet FQHC requirements but is not receiving a grant under Section 330 of the Public Health Service Act) or a Rural Health Clinic (RHC) that is certified by the Centers for Medicare and Medicaid Services (CMS).

Mental health counseling services provided by a LCSW or a LMSW are not subject to population limits placed on Medicaid reimbursement since such services are covered under the all-inclusive Prospective Payment System (PPS) rate. Federally designated health clinics must bill their all-inclusive PPS rate for

individual therapy and a lesser rate per recipient for group therapy. The FQHC rate codes, which are used by all federally designated health clinics, are:

- 4011 FQHC Group Psychotherapy, or
- 4013 FQHC Individual Threshold Visit

Billing for services rendered at part-time clinics will not be allowed.

- **Collaborative Care Program:** Collaborative Care is an evidence-based model of behavioral health integration to detecting and treating common mental health conditions such as depression and anxiety in primary care settings. Collaborative Care focuses on defined patient populations tracked in a registry, measurement-based treatment to target. Trained primary care providers and embedded behavioral health professionals provide evidence-based medication and/or psychosocial treatments, supported by regular psychiatric case consultation and treatment adjustment for patients who are not improving as expected.

As part of the NYS Medicaid Collaborative Care program, participating academic medical center-affiliated primary care practices offer care management services provided by psychiatrists, nurse practitioners, psychologists, LCSWs or LMSWs to patients diagnosed with depression (patients must have a minimal score on an approved psychometric measure). These patients are monitored on a monthly basis for up to 12 months.

Care management services provided by a psychiatrist, a nurse practitioner or a psychologist are billable under the APG rates. However, care management services provided by a LCSW or a LMSW are not billable under the APG rates, nor are they billable under the LCSW/LMSW mental health counseling Medicaid rate codes. The services are billable as an indirect part of the collaborative care rate, which is only provided to the academic medical centers that are participating in the collaborative care program. Furthermore, care management services provided by a LCSW or a LMSW may be provided to eligible patients regardless of their age or whether they are pregnant.