Regulatory Analysis Form

(Completed by Promulgating Agency)

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INDEPENDENT REGULATORY REVIEW COMMISSION

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IRRC Number: 3176

(1) Agency
Department of Human Services

(2) Agency Number: 14
Identification Number: 538

(3) PA Code Cite: 55 Pa. Code Chapters 1153 and 5200

(4) Short Title: Outpatient Psychiatric Services and Psychiatric Outpatient Clinics

(5) Agency Contacts (List Telephone Number and Email Address):

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(6) Type of Rulemaking (check applicable box):

- ☐ Proposed Regulation
- ☒ Final Regulation
- ☐ Final Omitted Regulation
- ☐ Emergency Certification Regulation;
  - ☐ Certification by the Governor
  - ☐ Certification by the Attorney General

(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

The purpose of this final-form rulemaking is to amend Chapters 1153 and 5200 to allow licensed professionals to work within their scope of practice in psychiatric outpatient clinics, to allow fifty percent of the required psychiatric time to be provided by advanced practice professionals or through the use of tele-behavioral health and to reduce the frequency of treatment plan updates for licensed providers. Additionally, the revisions reflect changes in the benefit packages resulting from the implementation of Medicaid expansion under the Patient Protection and Affordable Care Act (Pub. L. No. 111-148) and the consolidation of adult benefit packages, and to be consistent with the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) (Pub. L. No. 110-343). The revisions also codify the requirements for the delivery of Mobile Mental Health Treatment (MMHT) services outlined in Medical Assistance (MA) Bulletin 08-06-18, Mobile Mental Health Treatment, issued November 30, 2006 and to comply with the requirement to promulgate regulations for supervision in accordance with section 4 of the Outpatient Psychiatric Oversight Act (Act of May 31, 2018, P.L. 123, No. 25) (OPOA). The changes support the principles of recovery, resiliency and self-determination by updating language to reflect a person-first philosophy, allowing consistent access to community-based services and focusing on appropriate evidence-based individual clinical interventions.

(8) State the statutory authority for the regulation. Include specific statutory citation.

The Department of Human Services (Department) has authority under sections 201(2) and 1021 of the Human Services Code (62 P.S. §§ 201(2), 1021); sections 105 and 112 of the Mental Health Procedures Act (50 P.S. §§ 7105, 7112); section 201(2) of the Mental Health and Intellectual Disability Act of 1966 (50 P.S. § 4201(2)); and section 4 of the OPOA.

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

Yes, the provisions regarding on-site psychiatric time at the facility are mandated by the OPOA.

No other Federal or State statute, regulation, court order, or court decision mandates the proposed regulation.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The final-form rulemaking is needed to update the current regulations, which will help maintain the 285 community-based psychiatric outpatient clinic programs and their 2264 satellite sites that served 325,851 individuals through the expenditure of public funds in Fiscal Year 2013-14. Community-based psychiatric outpatient clinics are a key component of the public mental health system and should be accessible to all individuals to receive an array of cost-effective clinical services and supports. Psychiatric outpatient clinics provide services in the community utilizing a recovery-based approach that supports individuals with mental illness and emotional disturbance by engaging the individual in the treatment process as an equal partner, offering a variety of treatment modalities based upon clinical need and individual choice, and supporting the individual's recovery process.

The regulation is needed to amend the requirements for psychiatric time, staffing patterns and the time frames for the development, review and sign-off of initial treatment plans and updates at a psychiatric outpatient clinic. Previously, a psychiatric outpatient clinic was required to have a psychiatrist at the clinic for at least 16 hours each week and employ four full-time equivalent (FTE) mental health professionals regardless of the number of individuals being served by the clinic. The regulation amends the requirements for staffing patterns and psychiatric time by allowing 50% of the treatment staff providing psychotherapy to be mental health professionals and requiring 2 hours of psychiatric time for each FTE mental health professional and mental health worker per week. Additionally, 50% of the psychiatric time shall be provided by the psychiatrist at the psychiatric outpatient clinic, while the other 50% may be provided by an advanced practice professional or by a psychiatrist off-site through the use of tele-behavioral health or by a combination of advanced practice professionals and tele-behavioral health.

The regulation allows a 30-day time frame for the development, review and sign-off of the initial treatment plan and extends the time frame for treatment plan updates to 180 days. In addition to the time frame changes for the treatment planning process, the regulation now allows a psychiatrist, certified registered nurse practitioner or licensed clinical psychologist to review and sign the initial treatment plan. Previously, only a psychiatrist was able to review

and sign the treatment plan. The primary professional providing services at the psychiatric outpatient clinic and the individual receiving services may review and sign treatment plan updates.

The amendments made to the final-form rulemaking will improve access to medically necessary behavioral health services for individuals seeking psychiatric outpatient clinic services, allow advanced practice professionals to provide services within their scope of practice when employed by a psychiatric outpatient clinic, expand the utilization of MMHT services for individuals under 21 years of age and allow the use of tele-behavioral health as a mode of service delivery. Psychiatric outpatient clinic providers will benefit from the amendments by providing MMHT services to individuals under 21 years of age, expanding the roles of advanced practice professionals in providing services, allowing the use of tele-behavioral health to increase access to services, increasing group therapy size to serve more individuals and aligning current services with best practice principles.

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

There are no provisions that are more stringent than Federal standards.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

The Department reviewed psychiatric outpatient clinic regulations issued by New York, New Jersey, Maryland, Wisconsin, Minnesota, South Carolina and Oregon. The Department reviewed New York, New Jersey and Maryland regulations due to proximity to this Commonwealth. The states listed provide outpatient psychiatric services under the clinic model, as does this Commonwealth, and the Department reviewed their regulations to compare proposed changes. The final-form changes to the regulations were congruent with the other state requirements for staffing patterns, psychiatric services, treatment planning and record keeping. This Commonwealth will not be competing with other states, as this final-form rulemaking relates to licensure standards only for psychiatric outpatient clinics within this Commonwealth.

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

The regulation will not affect existing or proposed regulations of the Department or other State agencies.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

The Department convened a diverse stakeholder workgroup to review and provide input to the proposed rulemaking. The workgroup held four face-to-face meetings on November 14, 2013, December 9, 2013, January 7, 2014, and January 21, 2014 to review the current regulations and provide recommendations for the proposed changes. The following organizations were represented in the workgroup:

Rehabilitation and Community Providers Association, Pennsylvania Medical Society, Pennsylvania Psychiatric Society, Pennsylvania Mental Health Consumers Association, Mental Health Association of Southeastern Pennsylvania, Northern Tier Counseling, Child and Family Focus, Inc., Columbia, Montour, Snyder, and Union Behavioral Health/Intellectual Disabilities, Value Behavioral Health-PA, and Community Care Behavioral Health Organization.

Additionally, individuals representing the Office of Mental Health and Substance Abuse Planning Council provided feedback on the proposed rulemaking, as did representatives from Dauphin County Mental Health Agency, Lancaster General Hospital and Magellan Behavioral Health.

Representatives from three psychiatric outpatient clinic programs across this Commonwealth also provided input to the proposed amendments to address current challenges that impact small rural clinics in delivering quality clinical services.

The Department reconvened the workgroup members on October 26, 2017, to review the public comments, solicit input to recommended revisions to the rulemaking and request any additional feedback on the proposed rulemaking prior to developing final-form rulemaking. Additionally, the Department held a telephone call with representatives from the Pennsylvania Psychiatric Society on October 31, 2017, to gather input into the rulemaking. The Department incorporated revisions based upon public comment and workgroup feedback into the draft rulemaking and sent the revisions to the workgroup for final review and comment. The Department made additional edits to the final-form rulemaking based upon the workgroup's comments to the draft document. The Department appreciates the support and dedication of the workgroup in developing this regulation.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

The regulation will affect all licensed psychiatric outpatient clinics and satellites. There are 285 licensed psychiatric outpatient clinic programs and 2264 satellite programs within the outpatient facilities. Of the 285 psychiatric outpatient clinics, 33 have approved service descriptions to provide MMHT services. Of the 285 licensed outpatient clinics, 69 are for-profit businesses and receive MA reimbursement from the Department for services rendered. Additionally, for-profit psychiatric outpatient clinics contract with private insurance companies and businesses to provide services, as well as treat individuals who pay privately.

Section 3 of the Regulatory Review Act (71 P.S. § 745.3) includes the following definition of "small business:" "As defined in accordance with the size standards described by the United States Small Business Administration's Small Business Size Regulations under 13 CFR Ch. 1 Part 121 (relating to Small Business Size Regulations) or its successor regulation." The Federal regulations reference the North American Industry Classification System (NAICS)

standards. The NAICS small business size standard for outpatient mental health clinics is $15 million in annual receipts based upon the Internal Revenue Service tax return form.

Of the 285 licensed psychiatric outpatient clinics, 69 are for-profit businesses. Psychiatric outpatient clinics receive payment from private insurers in addition to the Medical Assistance Program. The Department does not have access to information on the total revenue generated by each psychiatric outpatient clinics that would be reported on Internal Revenue Service tax return forms. The Department does not know which, if any, psychiatric outpatient clinics enrolled in the MA Program meet the definition of a small business.

The regulation will equally affect the 285 licensed psychiatric outpatient clinics and satellites, including any small businesses, by requiring compliance with the requirements in the regulations. The changes will reduce some paperwork requirements, increase the use of licensed advanced practice professionals within their scope of practice and eliminate the accreditation requirement for for-profit clinics. The regulation will not adversely affect small businesses.

The regulation will affect individuals receiving services at psychiatric outpatient clinics. Under the regulations, psychiatric outpatient clinics will increase access to community-based mental health services, provide services at alternative community locations, utilize technology as a mode of service delivery and support recovery by engaging individuals served in the treatment planning process.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

The regulation will affect all licensed psychiatric outpatient clinics. There are 285 licensed outpatient programs and 2264 satellite programs within the outpatient facilities. All psychiatric outpatient clinics, including any small businesses, must comply with the regulations to maintain their licensure to provide services in the Commonwealth.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

Psychiatric outpatient clinic providers will benefit from the final-form changes to staffing patterns, which will require 50% of the treatment staff providing psychotherapy to be mental health professionals and require 2 hours of psychiatric time per week for every FTE mental health professional and mental health worker. This will benefit smaller clinics by reducing the psychiatric time requirements from 16 hours to a ratio based upon staffing patterns.

The regulation allows 50% of the psychiatric time to be provided by the psychiatrist at the clinic, while the other 50% may be provided by an advanced practice professional or by a psychiatrist off-site through the use of tele-behavioral health or by a combination of advanced practice professionals and tele-behavioral health. This will benefit psychiatric outpatient clinics by allowing other professionals to be included in the psychiatric time ratio.

The regulation expands the array of licensed professionals who may review and sign an initial treatment plan and any updates to include a psychiatrist, certified registered nurse practitioner

or licensed clinical psychologist. This amendment will allow licensed professionals to work within their scope of practice at psychiatric outpatient clinics and reduce the paperwork requirements for psychiatrists, allowing the ability to provide more direct services.

The final-form changes will fiscally benefit for-profit psychiatric outpatient clinics by no longer requiring accreditation by the Joint Commission on Accreditation of Hospitals (JCAH) in addition to licensure by the Department.

The ability to utilize advanced practice professionals to provide services, such as medication management, will also provide a cost-effective alternative to outpatient providers, while maintaining quality treatment for individuals receiving services at psychiatric outpatient clinics.

Individuals receiving services at psychiatric outpatient clinics will benefit from the proposed language changes that support recovery, resiliency and self-determination by utilizing person-first terminology. Additionally, the treatment planning process will require the inclusion of the individual receiving services. Research supports the importance of having individuals who receive services involved as equal partners with input into their service planning. Access to mental health treatment in the community supports recovery. Self-determination and self-direction are key elements of the guiding principles of recovery. According to the 10 Guiding Principles of Recovery issued by the United States Department of Health and Human Services' Substance Abuse and Mental Health Services Administration in 2010, empowering individuals to make informed decisions and build on their identified strengths helps them to gain control over their lives and promotes recovery.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

The regulation will benefit individuals receiving services in psychiatric outpatient clinics allowing technology as a mode of service delivery and the provision of services in alternative community sites, including homes, supporting recovery and enhancing individualized treatment services. Psychiatric outpatient clinics will benefit by utilizing advanced practice professionals to provide services within their scope of practice, reducing some paperwork requirements and increasing access to behavioral health services. The proposed changes will not have any cost or adverse effects.

(19) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

For-profit small businesses will benefit from the final-form changes that eliminate the requirement to receive accreditation by the JCAH. The accreditation is for a 3-year period. The fees are divided across the 3 years, with an additional survey fee for the first year. The actual cost depends on several factors, such as the number of locations and the volume of individuals served by the clinic.

JCAH's website (http://www.jointcommission.org) provides the following example of the cost for a small clinic. In the first year, approximately 60% of the fees would be paid, and 20% would be paid over each of the next 2 years. A small clinic would pay approximately $1,689 in annual fees each year plus a survey fee of approximately $2,835 in the years of the on-site survey.

Based upon the estimates provided on JCAH's website, the Department estimates that small for-profit businesses would save at a minimum $6,213 dollars every 3 years by no longer being required to have accreditation from an independent organization in addition to licensure by the Department.

The regulation does not require any new legal, accounting or consulting procedures.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The Department does not anticipate any fiscal impact to the local governments. In addition, the regulation does not require any new legal, accounting or consulting procedures.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

The Department does not anticipate any fiscal impact to the State government. In addition, the regulation does not require any new legal, accounting or consulting procedures.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

Compliance with the regulation does not require any additional reporting or record keeping.

There are minimal paperwork additions to comply with the regulation, which include the development of additional admission policies, discharge policies, complaint policies and a statement of rights policy. The Department included the requirement of additional policies based upon public comment and input from workgroup members.

The regulation reduces treatment planning requirements, which will decrease current paperwork requirements for psychiatric outpatient clinic providers. Other licensed professionals can now review and sign treatment plans, which will alleviate some paperwork requirements for the psychiatrist and increase the ability to provide clinical services and oversight.

(22a) Are forms required for implementation of the regulation?

No.

(22b) If forms are required for implementation of the regulation, **attach copies of the forms here.** If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. **Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.**

Not applicable.

(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year 2017-2018	FY +1 Year 2018-2019	FY +2 Year 2019-2020	FY +3 Year 2020-2021	FY +4 Year 2021-2022	FY +5 Year 2022-2023
SAVINGS:	$	$	$	$	$	$
Regulated Community	$0	$0	$0	$0	$0	$0
Local Government	$0	$0	$0	$0	$0	$0
State Government	$0	$0	$0	$0	$0	$0
Total Savings	$0	$0	$0	$0	$0	$0
COSTS:						
Regulated Community	$0	$0	$0	$0	$0	$0
Local Government	$0	$0	$0	$0	$0	$0
State Government	$0	$0	$0	$0	$0	$0
Total Costs	$0	$0	$0	$0	$0	$0
REVENUE LOSSES:						
Regulated Community	$0	$0	$0	$0	$0	$0
Local Government	$0	$0	$0	$0	$0	$0
State Government	$0	$0	$0	$0	$0	$0
Total Revenue Losses	$0	$0	$0	$0	$0	$0

(23a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY

	2014-2015	2015-2016	2016-2017	2017-2018
MA-Capitation	$4,003,540,000	$3,828,934,000	$3,657,539,000	$3,304,272,000
MA Fee-for-Service	$564,772,000	$392,918,000	$450,970,000	$478,867,000

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

(a) An identification and estimate of the number of small businesses subject to the regulation.
(b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
(c) A statement of probable effect on impacted small businesses.
(d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

(a) Of the 285 licensed psychiatric outpatient clinics, 69 are for-profit businesses and receive MA reimbursement from the Department for services rendered. The Department does not have access to information on the total revenue generated by each clinic. (See # 15).
(b) Compliance with the regulation does not require any additional reporting or record keeping. The regulation adds minimal paperwork requirements, such as the development of admission policies, discharge summaries, complaint policies and statement of rights policies for congruence with other chapters. The Department added those requirements based upon public comment and workgroup input. There will be a decrease in the treatment planning paperwork requirements by expanding time frames for review of the plans and allowing additional professionals to review and sign plans.
(c) The regulation will not have an adverse impact on nonprofit or for-profit psychiatric outpatient clinics, including any clinics meeting the definition of small businesses.
(d) There are no less intrusive or less costly alternative methods of achieving the purpose of the regulation.

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

There are no provisions specifically developed for minorities, elderly, small businesses or farmers.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

The regulations effectively provide for the health and safety of individuals receiving psychiatric outpatient clinic services, as well as ensure access to quality clinical treatment, including access to services in approved alternative community sites. Because there are no new

reports, forms or other requirements under the regulation, it is the least burdensome alternative. Therefore, the Department did not consider any other regulatory provisions.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

a) The establishment of less stringent compliance or reporting requirements for small businesses;
b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
c) The consolidation or simplification of compliance or reporting requirements for small businesses;
d) The establishment of performance standards for small businesses to replace design or operational standards required in the regulation; and
e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

The regulation will not have an adverse impact on small businesses. It will reduce some paperwork by expanding time frames for treatment plan updates, allowing other professionals to review and sign treatment plans, increasing access to services by the utilization of technology, and removing fiscally burdensome requirements to have accreditation from the JCAH for for-profit psychiatric outpatient clinics in addition to yearly licensure by the Department.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

The Department reviewed outpatient psychiatric regulations published by New York, New Jersey, Maryland, Wisconsin, Minnesota, South Carolina and Oregon to determine the staffing patterns for other outpatient clinic models, including staff responsibilities and qualifications, psychiatric service requirements, treatment planning process and time frames, and recordkeeping requirements prior to revising Chapters 1153 and 5200. The other states' regulations can be accessed at:

http://www.state.nj.us/humanservices/providers/rulefees/regs/

http://www.omh.ny.gov/omhweb/clinic_restructuring/part599

http://www.dsd.state.md.us/comar/SubtitleSearch.aspx?search=10.21.20*

http://www.scdhhs.gov/provider-manual-list

http://www.revisor.mn.gov/rules/?id=9520

http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_309/309_019.html

http://docs.legis.wisconsin.gov/code/admin_code/dhs/030/35.pdf

In addition to reviewing other states' regulations, the Department gathered research data to review the most recent prevalence estimates of mental illness, the national cost impact of untreated mental illness, treatment effectiveness, the impact of stigma in accessing treatment, the need for public awareness about early intervention, treatment outcomes and recovery from mental illness.

The Department accessed research data by searching on the Internet and requesting journal material if relevant. The data cited was provided in reports from national entities such as the Substance Abuse and Mental Health Services Administration of the United States Department of Health and Human Services, the United States Centers for Disease Control and Prevention, the World Health Organization, the National Institute of Mental Health, Healthy People 2020 and the National Alliance on Mental Illness. The data utilized can be accessed at:

http://store.samhsa.gov/shin/content//PEP14-LEADCHANGE2/PEP14-LEADCHANGE2.pdf

http://www.samhsa.gov/data/sites/default/files/NSDUHresultsPDFWHTML2013/Web/NSDUHresults2013.pdf

http://apps.who.int/iris/bitstream/10665/89966/1/9789241506021_eng.pdf?ua=1

http://www.nami.org/Learn-More/Mental-Health-By-the-Numbers

http://www.cdc.gov/nchs/healthy_people/hp2020.htm

http://www.ahrq.gov/research/findings/nhqrdr/nhdr10/index.html

http://www.cdc.gov/mentalhealthsurveillance

https://store.samhsa.gov/shin/content/PEP12-RECDEF/PEP12-RECDEF.pdf

http://www.euro.who.int/__data/assets/pdf_file/0019/74710/E82976.pdf

(29) Include a schedule for review of the regulation including:

A. The length of the public comment period: 30 days

B. The date or dates on which any public meetings or hearings will be held: N/A

C. The expected date of delivery of the final-form regulation: 2nd quarter of 2019

D. The expected effective date of the final-form regulation: Upon publication of the

final rulemaking in the Pennsylvania Bulletin.

E. The expected date by which compliance with the final-form regulation will be required: Upon publication of the final rulemaking in the Pennsylvania Bulletin.

F. The expected date by which required permits, licenses or other approvals must be obtained: N/A

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

The Department will review the regulation on an ongoing basis to ensure compliance with Federal and State law and to assess the appropriateness and effectiveness of the regulation. The Department will monitor the impact of this regulation through yearly licensing audits and utilization management reviews of the psychiatric outpatient clinics. In addition, the Department will meet with stakeholder organizations, the Office of Mental Health and Substance Abuse Services Planning Council, provider organizations and individuals receiving services in psychiatric outpatient clinics impacted by the regulations on an ongoing basis. The Department will research and address any issues identified as needed.

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By: _____ (Deputy Attorney General)	DEPARTMENT OF HUMAN SERVICES (Agency)	BY: [signature]
_____ Date of Approval	LEGAL COUNSEL: [signature]	MAY 20 2019 Date of Approval
	DOCUMENT/FISCAL NOTE NO. 14-538	(Deputy General Counsel) ~~(Chief Counsel, Independent Agency)~~ (Strike inapplicable title)
☐ Check if applicable Copy not approved. Objections attached.	DATE OF ADOPTION: _____ BY: [signature] TITLE: SECRETARY OF HUMAN SERVICES (Executive Officer, Chairman or Secretary)	☐ Check if applicable. No Attorney General approval or objection within 30 days after submission.

NOTICE OF FINAL-FORM RULEMAKING

DEPARTMENT OF HUMAN SERVICES

OFFICE OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES

55 Pa. Code Chapter 1153 Outpatient Psychiatric Services

55 Pa. Code Chapter 5200 Psychiatric Outpatient Clinics

Statutory Authority

The Department of Human Services (Department), by this order, adopts the regulation set forth in Annex A under the authority of sections 201(2) and 1021 of the Human Services Code (62 P.S. §§ 201(2) and 1021), sections 105 and 112 of the Mental Health Procedures Act (50 P.S. §§ 7105 and 7112), section 201(2) of the Mental Health and Intellectual Disability (MH/ID) Act of 1966 (50 P.S. § 4201(2)), and section 4 of the Outpatient Psychiatric Oversight Act (Act of May 31, 2018, P.L. 123, No. 25) (OPOA). Notice of the proposed rulemaking was published at 47 Pa.B. 4689 (August 12, 2017).

Purpose of the Regulation

The purpose of this final-form rulemaking is to amend Chapters 1153 and 5200 to reflect changes in the benefit packages resulting from the implementation of Medicaid expansion under the Patient Protection and Affordable Care Act (Pub. L. No. 111-148) and the consolidation of adult benefit packages, to be consistent with the Paul Wellstone and Peter Domenici Mental Health Parity and Addiction Equity Act of 2008 (Pub. L. No. 110-343), to codify the requirements for the delivery of Mobile Mental Health Treatment (MMHT) services outlined in Medical Assistance Bulletin 08-06-18, Mobile Mental Health Treatment, issued November 30, 2006, and to comply with the OPOA requirement to promulgate regulations regarding supervision.

This final-form rulemaking is needed to amend the requirements for psychiatric time, staffing patterns and the time frames for the development, review and sign-off of initial treatment plans and updates at a psychiatric outpatient clinic. Previously, a psychiatric outpatient clinic was required to have a psychiatrist at the clinic for at least 16 hours

each week and employ four full-time equivalent (FTE) mental health professionals regardless of the number of individuals being served. The regulation amends the requirements for staffing patterns and psychiatric time by allowing 50% of the treatment staff who provide psychotherapy to be mental health professionals and requiring 2 hours of psychiatric time for each FTE mental health professional and mental health worker per week. Additionally, although 50% of the psychiatric time must be provided by the psychiatrist at the psychiatric outpatient clinic, the final-form rulemaking allows the other 50% to be provided by an advanced practice professional or by a psychiatrist off-site through the use of tele-behavioral health, or by a combination of advanced practice professionals and tele-behavioral health, consistent with the OPOA.

The final-form rulemaking allows 30 days for the development, review and sign-off of the initial treatment plan and extends the time frame for treatment plan updates to 180 days. In addition to the changes to the time frame for the treatment planning process, the rulemaking allows a psychiatrist or an advanced practice professional to review and sign the initial treatment plan. Previously, only a psychiatrist could review and sign an initial treatment plan or update. The final-form rulemaking also allows the treatment plan updates to be reviewed and signed by the primary professional providing services to the individual at the psychiatric outpatient clinic. The primary professional may be the mental health worker under the supervision of a mental health professional or a mental health professional. For individuals receiving medication management services, the primary professional may be a physician, an advanced practice professional, a certified registered nurse practitioner (CRNP) or a physician assistant (PA) prescribing medication within the practitioner's scope of practice. The rulemaking will improve

access to medically necessary behavioral health services including medication management services and allow licensed professionals such as advanced practice professionals, CRNPs, PAs or mental health professionals to provide services within their scope of practice when employed by a psychiatric outpatient clinic.

The final-form rulemaking eliminates the requirement that for-profit psychiatric outpatient clinics receive accreditation from the Joint Commission in addition to meeting licensure requirements. This will maintain consistent licensure requirements for both non-profit and for-profit psychiatric outpatient clinics.

Background

Community-based psychiatric outpatient clinics are a key component of the public behavioral health system and provide an array of cost-effective clinical services and supports. Psychiatric outpatient clinics provide services in the community utilizing a recovery-based approach that support individuals with mental illness and emotional disturbance by engaging the individual in the treatment process as an equal partner, offering a variety of treatment modalities based upon clinical need and individual choice, and supporting the individual's recovery process.

In 2013, the Department convened a workgroup representing the regulated community, behavioral health managed care organizations and advocacy organizations, to review and update the regulations governing psychiatric outpatient clinic services. The existing regulations limited the use of advanced practice professionals, resulting in requirements for psychiatrists that impacted their availability to provide clinical services.

The Department has utilized the input of the workgroup throughout this process to amend the regulations and appreciates the dedication and support of the workgroup

members in developing this final-form rulemaking, which will improve access to services provided by psychiatric outpatient clinics.

Affected Individuals and Organizations

The final-form rulemaking affects individuals receiving psychiatric outpatient clinic services and the psychiatric outpatient clinics providing services.

Accomplishments and Benefits

The final-form rulemaking will benefit individuals seeking psychiatric outpatient clinic services by increasing the role of advanced practice professionals, expanding MMHT services to include individuals under 21 years of age, engaging individuals in the treatment planning process and supporting recovery.

The rulemaking will benefit psychiatric outpatient clinics by decreasing paperwork requirements related to the development of initial treatment plans and updates, which will increase psychiatric and clinical time available to provide direct services to individuals. It will also expand the role of advanced practice professionals, clarify psychiatric supervision responsibilities and allow individuals under 21 years of age to receive MMHT services in the community. Initial treatment plans may be reviewed, approved and signed by a psychiatrist or an advanced practice professional to reduce the paperwork requirements for the psychiatrist and to maximize the psychiatrist's ability to provide the direction for the delivery of clinical services at the psychiatric outpatient clinic.

Fiscal Impact

Implementation of the final-form rulemaking will be cost neutral to the Commonwealth, local governments and the regulated community.

Paperwork Requirements

There are minor changes to paperwork requirements in the final-form rulemaking, which include changes to the following: admission policy and procedures, statement of rights policy, complaint policy and procedures, discharge summary, and a requirement to submit updated service descriptions when the required information changes. The rulemaking also includes a reduction in paperwork requirements by changing the time frame to update treatment plans from every 120 days to every 180 days. Additionally, an advanced practice professional may review and sign the initial treatment plan alleviating some paperwork requirements for the psychiatrist.

Public Comment

Written comments, suggestions and objections regarding the proposed rulemaking were requested within a 30-day period following publication in the *Pennsylvania Bulletin*. The Department received 37 written responses containing 173 comments. These comments represented feedback from a broad spectrum of advocates, providers, professionals, attorneys, counties, behavioral health-managed care organizations and other organizations, including the Pennsylvania State Nurses Association, Rehabilitation and Community Providers Association, Pennsylvania Association of County Administrators of Mental Health and Developmental Services, Disability Rights Pennsylvania, Barber Behavioral Health Institute, Geisinger Health System, PA Council for Children, Youth and Families, Community Care Behavioral Health, Pennsylvania Psychological Association and the Hospital and Health Association of Pennsylvania. Additionally, the Department received comments from the Independent Regulatory Review Commission (IRRC).

Discussion of Major Comments and Changes

The following is a summary of the major comments received within the public comment period following publication of the proposed rulemaking and the Department's responses to these comments and a summary of additional changes to the final-form rulemaking. In addition, the Department has filed a separate comment and response document with the IRRC, the legislative committees and the Legislative Reference Bureau to address the remaining comments. This document is available upon request.

General – convening a workgroup

Two commentators recommended that the Department convene a workgroup to review psychiatric outpatient services in the Commonwealth and continue to address issues impacting the regulated community. IRRC recommended that the Department continue to work with the regulated community during the development of this final-form rulemaking.

Response:

The Department reconvened the original workgroup on October 26, 2017, to review public comments, solicit input for recommended revisions to the rulemaking and request any additional feedback on the proposed rulemaking prior to developing final-form rulemaking. Additionally, the Department held a telephone call with representatives of the Pennsylvania Psychiatric Society on October 31, 2017, to gather input into the rulemaking. The Department incorporated revisions based upon public comment and workgroup feedback into a draft rulemaking and sent it to the workgroup for final review and comment. The Department made additional edits to the rulemaking based upon the workgroup's comments to the draft document. The Department appreciates the support

and dedication of the workgroup in developing this rulemaking and looks forward to ongoing collaboration as needed, including participation at regularly scheduled meetings with stakeholder organizations.

General – integrated care

IRRC and two commentators asked the Department to consider the concept of integrated care to address behavioral and physical health service. Additionally, one commentator suggested that the Centers for Medicare & Medicaid Services promotes integrated treatment through demonstration grants.

Response:

The Department is currently testing the integration of physical and behavioral health services through the Certified Community Behavioral Health Clinic (CCBHC) Demonstration grant. Pennsylvania began implementation of the CCBHC Program in July 2017, as one of eight states selected to participate in the 2 year Medicaid Demonstration grant. The CCBHCs allow individuals access to a wide array of behavioral and physical health services at one location as a means to remove potential access barriers and increase coordination of care to improve health outcomes and quality of care. The Department plans to use the information gained from this demonstration project to advance broader improvements across the behavioral health system.

General – age of consent

IRRC and one commentator requested clarification on provisions relating to children receiving behavioral health services and age of consent to be consistent with other regulations and statutes. Additionally, the Department was asked to ensure that eligible

individuals are not excluded from services, with one commentator stating that partial hospitalization services for persons 14 years of age or older, but under age 19 appear to have been omitted from the proposed regulations.

Response:

The Mental Health Procedures Act (50 P.S. § 7201) states that any person 14 years of age or older who believes that he is in need of treatment and substantially understands the nature of voluntary inpatient treatment may submit to examination and treatment. The Minor's Consent to Medical, Dental, and Health Services Act (35 P.S. § 10101.1) specifies that a minor 14 years of age or older can consent to voluntary mental health treatment in both inpatient or outpatient settings, but does not amend the Mental Health Procedures Act or alter the minor's rights under the Act. At 14 years of age, an individual can provide voluntary consent to both inpatient and outpatient mental health treatment services.

The Department did not change the age range for adult or children's partial hospitalization services in § 1153.2 (relating to definitions). The rulemaking updates the reference to the Office of Mental Health and Substance Abuse Services (OMHSAS) to reflect the current name of the Office for consistency throughout the chapter. Adult partial hospitalization services can be provided to individuals 15 years of age or older, while children's partial hospitalization services may be provided to individuals 14 years of age or younger, which allows this service to be provided to individuals between the ages of 14 and 18. Additionally, § 5210.7(b)(2) (relating to program standards) states that adult partial hospitalization programs may treat adolescents under the age of 14 when clinically appropriate and that children and youth partial hospitalization programs

may treat adolescents 14 years of age or older when clinically appropriate. 55 Pa. Code, Chapter 5210, relating to Partial Hospitalization, is not part of this rulemaking and has not been amended.

General – records

One commentator requested confirmation that all individual records including those not reimbursed by the Medical Assistance (MA) Program must comply with all recordkeeping requirements in Chapters 1153 and 5200.

Response:

Chapter 1153 addresses the MA payment requirements for psychiatric outpatient clinic services provided by a licensed psychiatric outpatient clinic enrolled in the MA Program, while Chapter 5200 establishes the requirements for any psychiatric outpatient clinic to be licensed regardless of payment source. All licensed psychiatric outpatient clinics must comply with the requirements in Chapter 5200 for licensure. A psychiatric outpatient clinic enrolled in the MA Program and providing services to an MA beneficiary must also comply with Chapter 1153.

General – access for individuals needing medications

One commentator suggested that the Department add requirements for access to a psychiatrist for medication management in situations in which the individual has been discharged from inpatient care because individuals often must wait for a significant period of time to see a psychiatrist, which may impact the recovery process.

Response:

The Department has included requirements for psychiatric outpatient clinics to develop admission policies that include time frames for admission for individuals

referred from inpatient units, crisis intervention services or for medication management in § 5200.32(2) (relating to treatment policies and procedures). With the addition of CRNPs and PAs to provide medication management services at psychiatric outpatient clinics, the psychiatric outpatient clinics will have other qualified professionals to provide medication management services.

§ 1153.2 Definitions – adult

IRRC and one commentator requested the rationale for the definition of adult as an individual 21 years of age or older, stating that, by most standards, adults are considered to be 18 years of age or older. IRRC also asked if this is consistent with the law in the Commonwealth.

Response:

The definition of adult has been removed from the rulemaking to eliminate any confusion. The definition was added because the proposed regulations identify the two Medicaid benefit packages. With Medicaid expansion, Pennsylvania provides an adult and children's benefit package. The adult benefit package is for individuals 21 years of age and older as identified in 55 Pa. Code Chapter 1101 (relating to the general provisions for payment made by the Medicaid Program), which defines an adult as "a MA recipient 21 years of age or older." Additionally, an adult is defined in 1 Pa.C.S. § 1991 (relating to definitions) as an individual 21 years of age or over.

§ 1153.2 Definitions – family, group and individual psychotherapy

IRRC and one commentator requested clarification on the rationale for the removal of the minimum time requirements for the provision of psychotherapy services.

Response:

The regulated community uses the current procedural terminology (CPT) national codes to bill for services rendered. There are different CPT codes based upon the time range of the service provided. With the elimination of the time frames in the rulemaking, any changes made to the CPT codes will not impact the billing process for the regulated community and still provide a time range for the provision of services.

§ 1153.2 Definitions – LPHA - licensed practitioner of the healing arts

One commentator suggested that licensed clinical social workers be included in the definition of LPHA.

Response:

The Social Workers, Marriage and Family Therapists and Professional Counselors Act (63 P.S. §§ 1901-1922) was recently amended by the Act of June 29, 2018 (P.L. 505, No. 76) to include the ability to assess, diagnose and treat mental and emotional disorders in the practice of clinical social work, marriage and family therapy, and professional counseling. A licensed clinical social worker, a licensed marriage and family therapist, or a licensed professional counselor may now diagnose mental illness using currently accepted diagnostic classifications. The definition of LPHA is revised to include licensed clinical social workers, licensed marriage and family therapists and licensed professional counselors in recognition of the ability to diagnose mental illness as part of their scope of practice.

§ 1153.2 Definitions – mental health professional

Three commentators suggested that the requirement of mental health clinical experience be revised to clinical experience due to potential challenges in hiring qualified staff. Additionally, one commentator requested that a distinction be made

between a licensed mental health professional and an unlicensed mental health professional.

Response:

The Department revised the definition of "mental health professional" to require a graduate degree in a generally recognized clinical discipline in which the degree program includes a clinical practicum to ensure that individuals providing clinical services at the psychiatric outpatient clinic are qualified and to provide clarification to the regulated community.

The Department has not amended the final-form rulemaking to distinguish between a licensed and unlicensed mental health professional who may be employed by a psychiatric outpatient clinic. The rulemaking sets the minimum qualification standards for a mental health professional and does not preclude a psychiatric outpatient clinic from setting its own qualifications, such as licensure, for employment as a mental health professional.

§ 1153.2 Definitions – mobile mental health therapy (MMHT)

IRRC and four commentators requested that more details on the implementation of MMHT services be included in the Preamble, including the expectations for a medication visit, the criteria for MMHT services, how the service is used and any requirement for prior authorization of the service.

Response:

MMHT services were added to the Medicaid State Plan and to the MA Program fee schedule in 2006 as a rehabilitation service for individuals 21 years of age or older who are unable to receive outpatient services at the clinic site. The rehabilitation option

allows the psychiatric outpatient clinic to receive payment from the MA Program for medically necessary services provided in the home or community when recommended by a LPHA. The need for this service was identified by the members of the OMHSAS Advisory Committee for individuals 21 years of age or older. The service guidelines for the delivery of MMHT were issued in the Department's Medical Assistance Bulletin 08-06-18, "Mobile Mental Health Treatment" (November 30, 2006) (MA Bulletin 08-06-18). With the changes to benefit packages resulting from the implementation of Medicaid expansion, the age limits for this service were removed from the State Plan allowing MMHT to be provided to individuals under 21 years of age.

MMHT services require a written recommendation by a LPHA that identifies an emotional disturbance or physical illness that impedes or precludes the individual's ability to participate in services at the psychiatric outpatient clinic. The assessment must provide documentation of the inability to participate in services at the psychiatric outpatient clinic and may be completed in the individual's home or other approved community setting. MMHT services may be provided to individuals who would benefit from psychiatric outpatient services and do not require more intense services such as partial hospitalization or inpatient treatment.

The purpose of MMHT services is to provide therapeutic treatment to individuals who have encountered barriers to receiving or participating in services at the psychiatric outpatient clinic. MMHT services include assessment and treatment such as individual, family or group psychotherapy and medication management visits in an individual's residence or other community sites.

A psychiatric outpatient clinic may provide MMHT services with an approved service description that includes all of the elements required in § 5200.51(b) (relating to provider service description), but is not required to provide MMHT. Any psychiatric outpatient clinic that has an approved service description may continue to provide MMHT services. If the psychiatric outpatient clinic will be providing additional MMHT services or serving individuals under 21 years of age, an updated service description shall be submitted to the Department for approval.

The criteria for MMHT services are identified in § 1153.52(d) (relating to payment conditions for various services) of the rulemaking and are similar to the criteria that were listed in the Medical Assistance Provider Handbook for Psychiatric and Partial Hospitalization Services, Section VII, Other Services, under Subsection C, Service Initiation. The requirements for MMHT services are replacing the conditions for providing psychiatric clinic services in the home and allow for MMHT services to be provided to individuals diagnosed with a mental illness or emotional disturbance who would benefit from services provided by a psychiatric outpatient clinic but, due to a mental or physical illness that impedes or precludes their ability to participate in the services at the clinic, as identified in § 1153.52(d), would be unable to access treatment at the clinic site.

MMHT services are provided at the individual's home or other community site by psychiatric outpatient clinic staff as identified in the approved service description. A medication visit provided by a psychiatrist, physician, advanced practice professional or CRNP may include the administration of medication and the evaluation and monitoring of the use of medication. Individual or family psychotherapy may be provided by a

mental health professional or a psychologist. Group therapy services may be provided in approved community sites but cannot be provided in an individual's home.

MMHT services are available in both the fee-for-service delivery system and the HealthChoices Behavioral Health Program. In the HealthChoices Behavioral Health Program, MMHT services may require prior authorization by the Behavioral Health Managed Care Organization.

The Department will provide technical assistance to any psychiatric outpatient clinic interested in expanding or providing MMHT services.

§ 1153.2 Definitions – psychiatric evaluation

IRRC and two commentators recommended that the final-form rulemaking specify the process for obtaining "prior written approval" for a psychiatric evaluation completed by the use of audio-video transmission that would not result in creating a barrier to accessing services. Another commentator asked if any privacy or security standards would apply to evaluations done through audio-video transmission. Additionally, two commentators recommended that advanced practice professionals be allowed to complete a psychiatric evaluation.

Response:

The Department has revised the definition of "psychiatric evaluation" in the final-form rulemaking to remove the language related to "prior written approval" to clarify that prior authorization is not required for a psychiatric evaluation. A psychiatric evaluation can be provided using interactive audio and video communication technology that conforms to industry-wide compressed audio-video communication standards for real-time, two-way

interactive audio-video transmission. The technology must comply with State and Federal law for privacy and security.

By definition, a psychiatric evaluation is performed by a psychiatrist. To practice psychiatry, the psychiatrist has completed all the requirements to become a medical doctor, including 4 years of medical school and an additional 3 to 4 years of residency training specifically in psychiatry. Many psychiatrists are also Board Certified by national certification entities. The Department will continue to require that a psychiatric evaluation be performed only by a psychiatrist, recognizing the years of training and experience specific to this medical specialty. This does not preclude advanced practice professionals from completing an assessment, developing a treatment plan or performing a medication evaluation as part of their scope of practice in a psychiatric outpatient clinic.

§ 1153.2 Definitions – supervision by a psychiatrist

One commentator objected to this definition, stating that a psychiatrist will not be able to physically see, supervise and prescribe care for every individual that is receiving services at the outpatient psychiatric clinic, and that the supervision requirement implies that a psychiatrist supervises and directs every clinical decision made by other professionals who have a therapeutic relationship with the individual receiving services. Additionally, the commentator states that it is unsafe to delay decisions until a psychiatrist directs care through supervision. The commentator stated that a nurse practitioner who collaborates with a psychiatrist can make decisions for care independently under the nurse practitioner's scope of practice. Nurse practitioners do not require supervision but work under a collaborative agreement with a physician.

Response:

The Department removed the definition of "supervision by a psychiatrist" and replaced it with a definition for "under the direction of a psychiatrist." 42 CFR 440.90 defines clinic services as "preventive, diagnostic, therapeutic, rehabilitative or palliative services ... furnished ... under the direction of a physician." Psychiatric outpatient clinic services must comply with the Federal requirements when receiving Medicaid payment for services. The psychiatrist must provide or oversee and direct compensable medical, psychiatric and psychological services provided to individuals by the psychiatric outpatient clinic personnel. The psychiatrist has the overall responsibility for the services that are provided by the clinic staff.

The psychiatrist does not need to make every clinical decision for care but is responsible to assure that services are medically appropriate and to provide direction for the psychiatric outpatient clinic services through supervision and consultation to the professional staff employed by the psychiatric outpatient clinic.

§ 1153.14(1) Non-covered services – services conducted over the telephone

One commentator requested clarification that tele-psychiatry cannot be provided over the telephone. Two commentators suggested that a covered service be allowed to be provided over the telephone to support individuals in crisis and reduce hospitalization.

Response:

Tele-behavioral health services must be provided through the use of two-way real-time interactive audio and video transmission using technology that conforms to

industry-wide compressed audio-video communication standards and complies with State and Federal law. This service cannot be provided over a telephone.

Further, the MH/ID Act of 1966 (50 P.S. § 4301(4)) requires each county to provide emergency services at all times. Counties provide an array of licensed crisis intervention services, including telephone crisis intervention services that are always available as a resource for individuals in crisis.

§ 1153.14(5) Non-covered services – treatment institution

One commentator requested clarification that a community residential rehabilitation service (CRRS) or nursing home would not be considered a "treatment institution" and that psychiatric outpatient clinic and MMHT services may be provided to individuals who reside in these facilities.

Response:

Treatment institutions are defined in § 1153.2 as facilities licensed by the Department that provide full-time psychiatric treatment for resident individuals. By definition, individuals residing in a treatment institution would be receiving full-time psychiatric treatment at the facility and would not be eligible for or need outpatient treatment services. A CRRS and a nursing home would not be included in the definition of a treatment institution because these facilities do not provide full-time psychiatric treatment to the individuals who are residents. Individuals that reside in either a CRRS or nursing home who would benefit from services provided by a psychiatric outpatient clinic would be eligible to receive these services.

§ 1153.14(9)(20) Non-covered services – services on the same day

Four commentators recommended the removal of the MA payment limitation to allow an individual to receive psychiatric outpatient clinic services, MMHT and psychiatric partial hospitalization services on the same day, stating that the ability to receive individual psychotherapy and medication management on the same day provides comprehensive care. Additionally, it was recommended that MMHT and other home and community-based services be provided on the same day. IRRC requested the Department provide a rationale for these provisions.

Response:

This limitation does not restrict the individual from receiving multiple services, such as psychotherapy or medication monitoring, on the same day from the psychiatric outpatient clinic, partial hospitalization program or MMHT. The limitation addresses having an individual receive services at a psychiatric outpatient clinic and a partial hospitalization program or through MMHT on the same day. An individual can receive psychotherapy, medication management or a psychiatric evaluation at a psychiatric outpatient clinic, partial hospitalization program or MMHT services on the same day if the services are medically necessary.

A psychiatric partial hospitalization program provides a minimum of 3 hours of treatment in a 24-hour period on 1 or more days each week. MMHT services are provided to individuals with a mental illness or emotional disturbance who have a physical or mental illness that precludes or impedes them from receiving services at the psychiatric outpatient clinic. An individual who is unable to receive services at the clinic would also not be able to attend treatment at a partial hospitalization program.

An individual has a primary clinician responsible for coordinating services, developing a treatment plan and monitoring access to needed treatment at the clinic, partial program or through MMHT services. If an individual is receiving services from multiple facilities, there is the potential for medication to be prescribed by more than one physician or advanced practice professional, which may result in a medication interaction, the implementation of different treatment plans and interventions, or conflicting treatment approaches that will not benefit the individual. The Department supports these limitations as protecting the health and safety of the individual while ensuring access to the appropriate level of care and services based upon medical necessity.

However, the Department recognizes that there may be some situations where a medically necessary specialized clinical service, such as trauma treatment or sex offender treatment, is not available at the facility providing primary treatment to the individual. To address a situation where the provision of a medically necessary specialized service by a different provider is clinically appropriate, the Department has amended the final-form rulemaking to provide for an exception to the noncoverage of these services.

§ 1153.14(18) Non-covered services – MMHT provided in a nursing home

One commentator identified the inability to provide MMHT services to individuals residing in a nursing home as a potential barrier to service delivery with the implementation of the Community HealthChoices program.

Response:

The Department amended the final-form rulemaking to allow the provision of MMHT services to individuals residing in nursing homes.

§ 1153.14(21) Non-covered services – transportation

Five commentators recommended amending this section to include the need for specialized transportation as a reason for receiving MMHT services. IRRC requested clarification on the intent of this limitation.

Response:

The Department removed the provision that identified MMHT services as a substitute for transportation as a noncovered service. MMHT services are available based on the clinical need for the service. The availability of transportation is not a clinical factor.

§ 1153.52(a)(7)(ii) Payment conditions for various services – treatment plans

Three commentators recommended that treatment plans be eliminated or replaced with a rating scale. One commentator stated that other states do not require treatment planning and another stated there is no evidence to support that adherence to treatment plans improves outcomes.

Response:

The Department reviewed regulations for psychiatric outpatient services in seven other states that all require treatment planning. Treatment planning is an ongoing process of assessing an individual's mental health status and treatment needs. The treatment planning process is completed with the individual receiving services by establishing treatment goals and determining what services may be provided by the psychiatric outpatient clinic to assist the individual in accomplishing these goals. Additionally, § 5200.31(c)(3) (relating to Treatment Standards) requires that the

treatment plan be developed with the active involvement of the individual receiving services to incorporate individual preferences in treatment. Person-centered treatment planning is a collaborative process with the individual participating in the development of the treatment goals and objectives to address individual needs. This process engages the individual in treatment, furthers the therapeutic relationship and promotes shared decision making to improve treatment outcomes. The treatment plan is developed to guide the treatment process and ensure that appropriate clinical services are provided. The treatment planning process is also a means for determining when the individual's goals have been met to the extent possible in the context of the psychiatric outpatient clinic program and to ensure that appropriate discharge planning occurs.

§ 1153.52(b)(1)(iii) Payment conditions for various services – psychiatric outpatient partial hospitalization

One commentator stated that the removal of time frames in the definition of psychiatric partial hospitalization services may allow a physician to prescribe partial hospitalization services for only 2 hours daily. Another commentator stated that the terms "supervised, protected setting" may be misconstrued as meaning an inpatient treatment setting.

Response:

The Department has included the time frame of 3 hours but less than 24 hours on any 1 day in the definition of psychiatric partial hospitalization in the final-form rulemaking. The terms "supervised, protected" were removed in the final-form rulemaking, and this subsection was revised for clarity.

§ 1153.52(b)(2)(v) Payment conditions for various services – psychiatric outpatient partial hospitalization

IRRC and one commentator recommended adding PAs and CRNPs to this subsection to be consistent with the amended definition of "psychiatric clinic medication visit."

Response:

The Department has amended the final-form rulemaking to include CRNPs and PAs in § 1153.52(b)(2)(v).

§ 1153.52(c)(1)(4) Payment conditions for various services – psychiatric outpatient clinic

IRRC and one commentator requested clarification that advanced practice professionals can provide a psychiatric clinic medication visit and a psychiatric clinic clozapine monitoring and evaluation visit. Additionally, IRRC recommended that if the intent is to allow an advanced practice professional to provide these services, the term should be added to this subsection and defined in Chapter 1153.

Response:

The Department has amended the final-form rulemaking to add the definition of advanced practice professionals to § 1153.2 (relating to definitions) for consistency. The definitions of a psychiatric clinic medication visit and a psychiatric clinic clozapine monitoring and evaluation visit include CRNPs and PAs, who are considered advanced practice professionals in the rulemaking, as professionals who may provide this service; therefore, no amendments were made to this section of the final-form rulemaking.

§ 1153.52(d) Payment conditions for various services – MMHT

One commentator stated that MMHT service criteria included in § 1153.52(d) are limiting and restrict the population to whom these services can be provided. The commentator recommends that this section be amended to include the criteria in the Medical Assistance Provider Handbook for Psychiatric and Partial Hospitalization Services, Section VII, Other Services, Subsection C, Service Initiation.

Response:

The criteria for MMHT services in § 1153.52(d) of the final-form rulemaking are similar to subsection C in the Medical Assistance Provider Handbook addressing service initiation. MMHT services may be provided when recommended by a physician or other practitioner of the healing arts acting within the practitioner's scope of practice to an individual who meets the medical necessity for psychiatric outpatient clinic services and has a mental or physical illness that impedes or precludes the individual's ability to participate in psychiatric outpatient services at the clinic site. The one criteria in the Medical Assistance Provider Handbook related to one or more significant psychosocial stressors has been eliminated for consistency with the changes to the previous multiaxial diagnostic approach for the diagnosis of mental illness and assessment of level of functionality used in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition-Revised (DSM-IV-TR) which preceded the current DSM-5. The DSM-5 eliminated this multi-axial format by combining the first three axes into one diagnostic list ordered by relevancy, to include all mental illness diagnoses, including personality disorders and intellectual disability, as well as medical diagnoses. The fourth axis, which consisted of psychosocial and environmental factors, is now represented by an expanded set of V codes that are used to recognize conditions other

than a disease or injury that may contribute to an individual needing treatment services. The written recommendation and the assessment will provide the necessary information that a mental or physical illness precludes or impedes the individual from receiving services at the clinic. The written recommendation or assessment may include the use of V codes that support the need for MMHT services. Therefore, the Department did not include psychosocial stressors as a separate and distinct criteria as it is incorporated into V codes that may be included as part of the written recommendation and assessment.

The Department also revised this section to remove the reference to "the disabling effects of" of mental or physical illness.

§ 5200.3 Definitions – advanced practice professional

Three commentators stated that a CRNP provides services in collaboration with a physician licensed to practice in the Commonwealth, in accordance with the Professional Nursing Law (63 P.S. §§ 211—225.5) and its regulations, not under the supervision of a physician, and requested revisions to the regulation for clarity. One commentator suggested that: "clinic services furnished by physicians, certified behavioral advanced practice registered nurses or PA, without regard to..." would be consistent with federal law.

Three commentators also suggested that the requirements for advanced practice professionals be added to both Chapters 1153 and 5200 (relating to Outpatient Psychiatric Services and Psychiatric Outpatient Clinics) for clarity and consistency.

Additionally, two commentators recommended that the definition allow CRNPs to have one year of experience working in a behavioral health field for consistency with the qualifications for a PA.

Response:

The definition of "advanced practice professional" is consistent with the OPOA. It includes both CRNPs and PAs. A PA is required to have a written agreement with a supervising physician under Section 422.13 of the Medical Practice Act of 1985 (63 P.S.§ 422.13) and its regulations (49 Pa. Code § 18.142). A CRNP is required to have a collaborative agreement with a physician at the psychiatric outpatient clinic and provide services under the Professional Nursing Law (63 P.S. §§ 211—225.5) and its regulations (49 Pa. Code § 21.282a).

Professionals employed by the psychiatric outpatient clinic provide services within their scope of practice. The federal regulation at 42 CFR 440.90, specifies that clinic services are under the direction of physician or dentist. Psychiatric outpatient clinic services must be provided in a manner that complies with federal rules when the clinic is receiving Medicaid payment for services, including the requirement that all services provided at the psychiatric outpatient clinic are under the direction of a physician.

The Department has amended the rulemaking to include the definition of advanced practice professionals in both chapters for consistency and clarity. Additionally, the Department has amended the definition of advanced practice professionals by removing the reference to supervision by a psychiatrist to address any confusion that a CRNP must receive supervision. The final-form rulemaking requires PAs and CRNPs to have a mental health certification or obtain certification within 2 years of hire or within 2 years of

the effective date of this regulation. This will allow PAs and CRNPs currently employed by a psychiatric outpatient clinic to obtain the certification if they do not already have the certification.

§5200.3 Definitions – assessment

IRRC and one commentator recommended that the term "assessment" be included in Chapter 1153 definitions for clarity and for consistency with the definition included in Chapter 5200 (relating to Psychiatric Outpatient Clinics). Additionally, a commentator stated that the terms "assessment," "evaluation" and "diagnostic evaluation" are used interchangeably throughout the chapter. IRRC requested either consistent use of the terminology or definitions for each term.

Response:

The Department agrees and has amended the rulemaking to include the definition of "assessment" in Chapter 1153 and 5200. Additionally, the Department has eliminated the terms "evaluation" and "diagnostic evaluation" and used the term "assessment" consistently throughout the chapters.

§ 5200.3 Definitions – LPHA- licensed practitioner of the healing arts

IRRC and one commentator asked if the term LPHA should be used instead of "licensed practitioner" as LPHA is defined but not used in the text of the chapter while the term "licensed practitioner" is used in §§ 5200.42 (a)(1) and (b)(1) (relating to medications) but is not defined.

Response:

The Department has amended the rulemaking to remove the term "licensed practitioner" in § 5200.42 (a)(1) and (b)(1) and added psychiatrists, physicians, CRNPs

and PAs for consistency in the chapter. Additionally, § 5200.41(a)(12) (relating to records) has been amended to clarify that a written recommendation from a LPHA for MMHT services shall be kept in the individual record.

§ 5200.3 Definitions – telepsychiatry

Two commentators requested clarification on the requirements for the utilization of tele-psychiatry and the approval process for this service. One commentator asked about security standards for the service. Additionally, IRRC requested that the Department consider expanding the use of tele-psychiatry to provide greater access to services provided by psychiatric outpatient clinics in the final-form rulemaking.

Response:

The Department has revised the definition of telepsychiatry in the final-form rulemaking, which is now called "tele-behavioral health." "Tele-behavioral health" is defined as "the use of interactive audio and video communication to provide clinical services at a distance using technology that conforms to industry-wide standards and is in compliance with State and Federal privacy and security laws. Tele-behavioral health does not include telephone services, electronic mail messages or facsimile transmission between a psychiatrist or an advanced practice professional and the individual receiving services." The Department has added a definition of interactive audio and visual to clarify that the service must be delivered by real-time two-way or multiple-way communication with the individual and the professional.

§ 5200.21(c)(1) – Qualifications and duties of the director/clinical supervisor –delegation of supervisory responsibilities

One commentator recommended that the clinical supervisor have the ability to delegate supervisory responsibility when not available at the psychiatric outpatient clinic.

Response:

The final-form rulemaking does not prohibit a clinical supervisor from delegating supervisory responsibility when not available. As part of the clinical supervisor's responsibility under § 5200.21(c)(2) (relating to qualifications and duties of the director/clinical supervisor), an operations policy and procedure should be developed to address supervisory responsibilities when the identified clinical supervisor is unavailable.

§ 5200.22 Staffing pattern – clarification of terms

IRRC and several commentators asked for clarification on what is meant by psychiatric time, whether CRNPs and PAs may provide psychiatric time, the qualifications for treatment staff and the standards for having a specialization in behavioral health. IRRC and one commentator also requested clarification on the qualifications for treatment staff that are included in determining the psychiatric time ratio.

Finally, IRRC also requested that the Department include details in the final-form regulation to address the requirement to obtain "prior written approval from the Department" for the use of tele-psychiatry and how this would be implemented by the Department.

Response:

The Department has amended the rulemaking to clarify the three issues related to staffing patterns identified by IRRC and commentators. Fifty percent of the treatment staff providing psychotherapy services must be mental health professionals. The qualifications for a mental health professional are included in the definition in § 5200.2. The psychiatric time requirements have been amended to clarify that a psychiatric outpatient clinic is required to have 2 hours of psychiatric time per week for each FTE mental health professional and mental health worker providing clinical services. Additionally, this section states that graduate and undergraduate students in accredited training programs are not included in the staffing patterns. Psychiatric residents with unrestricted licenses to practice medicine are considered mental health professionals as part of the staffing pattern.

The psychiatric time is considered the actual time that the psychiatrist is on-site at the psychiatric clinic providing services. Fifty percent of the psychiatric time must be provided by the psychiatrist at the clinic while the rest may be provided by an advanced practice professional, a psychiatrist off-site through tele-behavioral health or a combination of the use of advanced practice professionals and tele-behavioral health.

Additionally, the Department has removed the term "specializing in behavioral health" from the final-form rulemaking. The definition of "advanced practice professionals" was revised to include the requirement for mental health certifications.

The Department has amended the final-form rulemaking to remove any reference to requiring "prior written approval" to alleviate any confusion that prior written approval was required for a psychiatric evaluation, rather than for the use of tele-behavioral health as a mode of service delivery.

§ 5200.23 Psychiatric supervision

IRRC and six commentators stated that under the Professional Nursing Law and its regulations, CRNPs work in collaboration with physicians and psychiatrists, not under their supervision. Additionally, one commentator stated that the requirement of psychiatric supervision was problematic in integrated care settings where psychiatrists do not typically manage treatment.

Response:

The supervisory responsibilities of the psychiatrist listed in § 5200.23 (relating to psychiatric supervision) have been revised in the final-form rulemaking. Licensed professionals would provide services within their scope of practice as employees of the psychiatric outpatient clinic, consistent with the clinic policies and procedures, regulatory requirements and their job descriptions. A CRNP would have a collaborative agreement with the psychiatrist as required by the Professional Nursing Law (63 P.S. §§ 211—225.5) and its regulations relating to CRNP practice (49 Pa. Code § 21.282a).

Any professional employed by a psychiatric outpatient clinic provides services under the supervision and direction of a psychiatrist who has the overall responsibility for all clinical services provided by the psychiatric outpatient clinic staff within the staff members' scope of practice. CRNPs employed by the psychiatric outpatient clinic would have a collaborative agreement with the psychiatrist and provide services as allowed under their scope of practice. The Department has clarified the requirements for psychiatric supervision in the final-form rulemaking to include establishing appropriate standards for treatment and prescribing practices, participation in clinical staff meetings and consultation to staff.

This rulemaking applies only to licensed psychiatric outpatient clinics where clinical services are provided under the direction of a psychiatrist and not an integrated care model that may focus on physical health services rather than behavioral health services.

§5200.31(a)(2) Treatment planning

Seven commentators expressed concern about limited access to psychiatrists in the state and recommended that the Department allow additional licensed professionals under their scope of practice to sign treatment plans. Permitting other licensed professionals to review and sign treatment plans would allow psychiatric outpatient clinics to utilize psychiatric services to the fullest extent in the clinics. Additionally, IRRC requested that the Department ensure that the final-form regulation represents the best practices related to scope of practice for licensed practitioners.

Three commentators recommended that the Department require that the consenting family member for individuals under 14 years of age receiving services sign the treatment plans.

Response:

The Department has reviewed the public comments, the scope of practice for licensed professionals and solicited input from the workgroup members as part of the process of drafting the final-form rulemaking to address this concern. The Department has amended § 5200.31 (relating to treatment planning) to address recommendations from the regulated community while ensuring that appropriate oversight of treatment services in psychiatric outpatient clinics occurs to protect the health and safety of individuals receiving these services.

The amendments to the final-form rulemaking will allow a psychiatrist or an advanced practice professional to review, sign and date the initial treatment plan. Treatment plans developed for individuals receiving services under an involuntary outpatient commitment will still require psychiatric review and signature. For individuals receiving medication management services only, the psychiatrist, physician, CRNP or PA responsible for prescribing and monitoring medication shall review, sign and date the initial treatment plan.

Treatment plans shall be reviewed and updated every 180 days or as otherwise required by law with the individual receiving services and the professional providing primary treatment services. This may be the mental health professional, mental health worker under the supervision of the mental health professional, CRNP or PA based upon the services being provided to the individual by the psychiatric outpatient clinic. The treatment plan shall be reviewed on an annual basis by a psychiatrist or an advanced practice professional throughout the course of treatment from the psychiatric outpatient clinic. The review shall be documented in the individual record.

Since the majority of public comments supported the time frame changes for the initial treatment plan to 30 days and the treatment plan update to 180 days or as otherwise required by law, no changes have been made in the final-form rulemaking. The initial treatment plan can now be reviewed and signed by the professionals who can provide the required psychiatric time at the psychiatric outpatient clinic. The updated treatment plan can be reviewed and signed by the primary professional within their scope of practice who is providing clinical services to the individual.

Both the proposed and final-form rulemaking include the requirement that the treatment plan for children and adolescents be developed and implemented with the consent of parents or guardians and include their participation in treatment. Children under 14 years of age require written consent from the parent to receive treatment from the psychiatric outpatient clinic, which would include signing the treatment plans.

§ 5200.51 Provider service description

One commentator requested clarification that existing service descriptions for MMHT will remain valid under the final-form rulemaking and whether updated service description must be submitted for approval. Additionally, the commentator expressed concern that requiring a written recommendation from a LPHA for MMHT services was a barrier to the service.

Response:

The existing service description for MMHT services will remain valid if there are no changes to the service. Section 5200.51(a) requires a psychiatric outpatient clinic to submit an updated service description for approval by the Department when there are changes to MMHT services, such as providing services to individuals under 21 years of age.

MA Bulletin 08-06-18, Mobile Mental Health Treatment, states that MMHT services may be provided when prescribed by a physician or other practitioner of the healing arts. This requirement has not changed in the rulemaking. The individual may receive a written recommendation for MMHT services from a LPHA prior to the assessment. The assessment is a service that can be provided in the individual's home.

In addition to the changes discussed above, the Department made changes in the following sections of the final-form rulemaking, including correcting typographical errors, and revising language to improve clarity and for consistency with the changes previously discussed.

§ 1153.2 Definitions – advanced practice professional

The definition of "advanced practice professional" is added to the final-form rulemaking to comply with the OPOA, which requires the Department to promulgate regulations as necessary to carry out the provisions of the act. Advanced practice professionals are defined as CRNPs who hold a Pennsylvania license and a mental health certification or PAs who hold a Pennsylvania license and a mental health certification or obtain a mental health certification within two years of being hired by a psychiatric outpatient clinic or within two years of effective date of the regulation, whichever is later.

§ 1153.2 Definitions – interactive audio and video

The term "interactive audio and video" is added to the final-form regulation for consistency with the OPOA.

§ 1153.2 Definitions – LPHA - licensed practitioner of the healing arts

The definition of "Licensed Practitioner of the Healing Arts" is revised to include licensed clinical social workers, licensed professional counselors and licensed marriage and family therapists for consistency with recent amendments to the Social Workers, Marriage and Family Therapists and Professional Counselors Act (P.L. 220, No.39). The amendment has expanded the scope of practice of clinical social work, marriage

and family therapy and professional counseling to include the ability to diagnose mental and emotional disorders using currently accepted diagnostic classifications.

§ 1153.2 Definitions – mental health professional

The definition of "mental health professional" is revised to clarify that a graduate degree program must include a clinical practicum and conform with the changes previously discussed.

§ 1153.2. Definitions – mental illness or emotional disturbance

The last sentence in the definition of "mental illness or emotional disturbance" was removed as unnecessary given the reference to the diagnostic criteria in the Diagnostic and Statistical Manual of Mental Disorder or the International Classification of Diseases.

§ 1153.2 Definitions – outpatient services

In response to the recommendation by workgroup members, the Department is revising the definition of "outpatient services" in the final-form rulemaking for consistency with other changes that delineate the difference between services and the individual who is receiving the psychiatric outpatient clinic service.

§ 1153.2 Definitions – psychiatric evaluation

The definition of "psychiatric evaluation" is revised to clarify that the evaluation may be provided through the use of interactive audio and video communication that conforms with industry-wide technology standards. The definition also removes any reference to requiring prior written approval from the Department to clarify the regulation.

§ 1153.2 Definitions – psychiatric partial hospitalization

The definition of "psychiatric partial hospitalization" is revised for consistency with the language used in Chapter 5210 (relating to partial hospitalization).

§ 1153.2 Definitions – supervision by a psychiatrist

The definition of "supervision by a psychiatrist" is deleted and replaced with the term "under the direction of a psychiatrist" to clarify that a psychiatrist is responsible for the oversight of all services provided to individuals by psychiatric outpatient clinic personnel to align with the Federal requirements for a clinic in 42 CFR 440.90.

§ 1153.11 Types of services covered

The Department revised this section to include that services must be provided by facilities that are enrolled MA providers. Additionally, the final-form rulemaking is revised to change "partial hospitalization facilities" to "partial hospitalization outpatient facilities" for consistent use throughout the chapter. The Department also revised this regulation to clarify that the MA Program covers psychiatric outpatient clinic, partial hospitalization outpatient facility, and MMHT services provided to individuals with a mental illness or emotional disturbance and co-occurring diagnosis of an intellectual disability.

§ 1153.12 Outpatient services

This section is revised to delete the language "when ordered by a psychiatrist" and add "under the direction of a psychiatrist" for consistency with the changes in the definition section and to clarify that other professionals may order services within their scope of practice.

§ 1153.14(9)(20) Noncovered services – services on the same day

The final-form rulemaking is revised to allow for the payment of the provision of medically necessary clinical services that are not offered by the psychiatric outpatient

clinic, psychiatric partial hospitalization outpatient service or MMHT service on the same day. This revision conforms with changes previously discussed in the comment section.

§ 1153.14(10) Noncovered services – diagnosis by a psychiatrist

The final-form rulemaking is revised to clarify that MA payment will not be made for psychiatric outpatient clinic, partial hospitalization outpatient facility, and MMHT services to individuals who do not have a mental illness or emotional disturbance.

§ 1153.14(15) Noncovered services – review and approval of initial treatment plan

The initial assessment and treatment plan may be reviewed and approved by a psychiatrist or an advanced practice professional.

§ 1153.41(1)(10) Participation requirements – licensure and prescribing

The Department deleted the references to "fully" licensed as a psychiatric outpatient clinic or partial hospitalization outpatient facility to clarify that a psychiatric outpatient clinic or partial hospitalization outpatient facility is eligible to participate in the MA Program if it holds a provisional license. Additionally, the final-form rulemaking clarifies the professionals that may prescribe medications within their scope of practice at the psychiatric outpatient clinic include a psychiatrist, physician, CRNP or PA and deletes the term "licensed practitioner."

§ 1153.42(b) Ongoing responsibilities of providers – recordkeeping requirements

The final-form rulemaking clarifies what items must be part of the individual record and the recordkeeping responsibilities of providers serving MA beneficiaries.

§ 1153.51 – General payment policy.

The Department supports the use of tele-behavioral health and revised § 1153.51 to specify that it will publish procedures for the use of tele-behavioral health to provide compensable psychiatric outpatient clinic or psychiatric partial hospitalization services.

§ 1153.52(a)(2) Payment conditions for various services – psychiatric evaluation

The final-form rulemaking deletes all language referencing "prior written approval for a psychiatric evaluation" for clarity in the interpretation of the rulemaking. A psychiatric evaluation does not require prior written approval by the Department.

§ 1153.52(a)(7)(iv)(8)(i)(ii) Payment conditions for various services – treatment plans

The final-form rulemaking is revised to allow an initial treatment plan to be reviewed and approved by a psychiatrist or an advanced practice professional to allow the additional professionals who can now provide part of the psychiatric time to also sign the initial treatment plan. If the individual is receiving medication management services only at the psychiatric outpatient clinic, the professional responsible for the prescribing and monitoring of the use of the medications may review and sign the initial and updated treatment plans. Additionally, the individual receiving services is requested to sign the initial treatment plan and any updated plans. If the individual does not sign the plan, the request shall be documented in the record. This requirement ensures that treatment plans are developed in collaboration with the individual receiving services and are individualized to address the goals of each individual receiving services. Treatment plan updates are reviewed and updated every 180 days by the professional providing primary services to the individual.

§ 1153.52(b)(iii) Payment conditions for various services – psychiatric outpatient partial hospitalization

The final-form rulemaking revises the terminology related to psychiatric partial hospitalization outpatient services criteria to include time frames for the service consistent with the definition of partial hospitalization.

§ 1153.52(d)(2) Payment conditions for various services – MMHT

Finally, the final-form rulemaking is revised to clarify that there must be documentation of a written recommendation from a LPHA for MMHT services in the individual record for the service to be MA compensable.

§ 5200.3 Definitions – advanced practice professional

The definition of "advanced practice professional" is added to the final-form rulemaking to comply with the OPOA, which requires the Department to promulgate regulations as necessary. Advanced practice professionals are defined as CRNPs who hold a Pennsylvania license and a mental health certification or PAs who hold a Pennsylvania license and a mental health certification or obtain a mental health certification within two years of being hired by a psychiatric outpatient clinic or within two years of the effective date of the regulation, whichever is later.

§ 5200.3 Definitions – interactive audio and video

Additionally, the term "interactive audio and video" is added to the final-form regulation for consistency with the OPOA.

§ 5200.3 Definitions – LPHA - licensed practitioner of the healing arts

The definition of "Licensed Practitioner of the Healing Arts" is revised to include licensed clinical social workers, licensed professional counselors and licensed marriage and family therapists for consistency with recent amendments to the Social Workers, Marriage and Family Therapists and Professional Counselors Act (63 P.S. §§ 1901-

1922). The amendment has expanded the scope of practice of clinical social work, marriage and family therapy and professional counseling to include the ability to diagnose mental and emotional disorders using currently accepted diagnostic classifications.

§ 5200.3 Definitions – mental health professional

The definition of "mental health professional" is revised to clarify that a graduate degree program must include a clinical practicum and conform with the changes previously discussed.

§ 5200.3 Definitions – mental illness or emotional disturbance

The last sentence in the definition of "mental illness or emotional disturbance" was removed as unnecessary given the reference to the diagnostic criteria in the Diagnostic and Statistical Manual of Mental Disorder or the International Classification of Diseases.

§ 5200.3 Definitions – tele-behavioral health

The term "tele-behavioral health" replaces "tele-psychiatry" in the final-form rulemaking. Tele-behavioral health allows the use of interactive audio and video communication technology to provide clinical services at a distance, consistent with the OPOA. It does not include telephone conversations, electronic mail message or facsimile transmission.

§ 5200.11(d) Organization and structure – organizational change

The final-form rulemaking is revised to include a ten day time frame for the psychiatric outpatient clinic to notify the Department of a major change to the organizational structure or services. Previously, no time frame for notification was included in the rulemaking.

§ 5200.22(a) Staffing pattern – psychiatric time

The final-form rulemaking is revised for consistency with the OPOA, which requires 50% of the psychiatric time to be provided by the psychiatrist at the psychiatric outpatient clinic while the other 50% of the time may be provided by an advanced practice professional or by a psychiatrist off-site by the use of tele-behavioral health or a combination of tele-behavioral health and the use of advanced practice professionals. Additionally, this section is revised to clarify that the psychiatric time ratio applies to mental health professionals and mental health workers providing clinical services.

§ 5200.22(b) Staffing pattern – supervision

The rulemaking clarifies that all clinical staff employed by a psychiatric outpatient clinic are supervised by the psychiatrist that has the overall responsibility for services provided by the clinic.

§ 5200.23(a)(b)(c)(d) Psychiatric supervision

The final-form rulemaking is revised to clarify the psychiatrist's supervisory responsibilities for services provided by the psychiatric outpatient clinic staff. The psychiatrist establishes treatment standards and prescribing practices, participates in clinical staff meetings, contributes to the quality management process and provides consultation to clinical staff. The psychiatrist is responsible for the overall direction of services provided by staff.

§ 5200.31(b)(2)(3)(d)(2)(3)(4) Treatment planning – review and signature

The final-form rulemaking is revised to allow either a psychiatrist or an advanced practice professional to review and sign an initial treatment plan. This revision recognizes the professionals that may provide psychiatric time at the psychiatric

outpatient clinic under the OPOA can also review and sign an initial treatment plan. Previously, only a psychiatrist could review and sign the plan. For individuals that receive medication management services only, the professional responsible for prescribing and monitoring the use of medication may review and sign the initial treatment plan. Additionally, treatment plans are reviewed, updated and signed by the professional providing primary services at the psychiatric outpatient clinic. Finally, if the individual receiving services does not sign the treatment plan as requested, the mental health professional or mental health worker shall document this request in the record. The final-form rulemaking also re-organizes this section for clarity and readability of the treatment planning requirements.

§ 5200.32(2)(4)(5)(6) Treatment policies and procedures – admission, discharge, complaint and rights

The final-form rulemaking is revised to ensure policies and procedures are in place that protect the health and safety of individuals receiving services from the psychiatric outpatient clinic. Psychiatric outpatient clinics must have policies and procedures for assessments, time frames for referrals from crisis services, inpatient units and medication management services to ensure that individuals in need of services are seen in a timely manner. Additionally, a discharge policy must be developed for individuals who have completed treatment with the psychiatric outpatient clinic. The psychiatric outpatient clinic shall develop complaint policies and procedures to ensure that an individual receiving services has the ability to file a complaint regarding services. Finally, the psychiatric outpatient clinic must develop and provide a statement of rights in accordance with §§ 5100.51 – 5100.56 relating to patient rights.

§ 5200.33(a)(b) Discharge

The final-form rulemaking adds requirements for the development of a discharge summary for each individual receiving services. This document includes a summary of the services provided and outcomes, reason for discharge, and referral information for other services if needed. The psychiatric outpatient clinic must provide contact information for the local crisis intervention service and any referral contact information to the individual to ensure continuity of care upon discharge.

§ 5200.41(a)(12)(b)(2) Records – documentation and review

With the inclusion of MMHT services in the final-form rulemaking, the individual record must now include a written recommendation from a LHPA for this service. Additionally, records must be reviewed twice a year for quality by the director, clinical supervisor or psychiatrist.

§ 5200.42(a)(1)(b)(1) Medications – prescribing and dispensing

The final-form rulemaking deletes the term "licensed practitioner" which was not defined. The revision clarifies that a psychiatrist, physician, CRNP or PA may prescribe medications within their scope of practice at psychiatric outpatient clinics. Additionally, the final-form rulemaking is revised to clarify that medications can only be dispensed on an order from a licensed psychiatrist, physician, CRNP or PA.

§ 5200.44(1)(2)(3)(4) Quality assurance program – quality assurance plan

The final-form rulemaking is revised to clarify that the quality assurance process includes the review of timeliness and appropriateness of the services, feedback from individuals receiving services, documentation of findings of the annual review and utilization of the findings to improve services. The quality improvement process is

similar to other regulatory chapters for consistency to alleviate the need for psychiatric outpatient clinics that may have other licenses to develop other quality improvement plans.

§ 5200.53 Discharge – MMHT

The final-form rulemaking deletes this section because discharge planning has been added under § 5200.33 as a requirement for all psychiatric outpatient clinics. Since MMHT services can only be provided by a licensed psychiatric outpatient clinic with an approved service description, there was no need for a discharge section specific to MMHT.

Regulatory Review Act

Under section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)), on the Department submitted a copy of this regulation to the IRRC and to the Chairpersons of the House Committee on Human Services and Senate Committee on Health and Human Services (Committees). In compliance with the Regulatory Review Act, the Department also provided the Committees and the IRRC with copies of all public comments received, as well as other documentation.

In preparing the final-form regulation, the Department reviewed and considered comments from the Committees, the IRRC and the public.

In accordance with § 5.1 (j.1) and (j.2) of the Regulatory Review Act, this regulation was deemed approved by the Committees on . The IRRC met on and approved the regulation.

In addition to submitting the final-form rulemaking, the Department has provided the IRRC and the Committees with a copy of the Regulatory Analysis Form prepared by the Department. A copy of this form is available to the public upon request.

Order

The Department finds:

(a) The public notice of intention to amend the administrative regulation by this Order has been given pursuant to §§ 201 and 202 of the Commonwealth Documents Law (45 P.S. §§ 1201, 1202) and the regulations at 1 Pa. Code §§ 7.1 and 7.2.

(b) That the adoption of this regulation in the manner provided by this Order is necessary and appropriate for the administration and enforcement of the Human Services Code.

The Department, acting pursuant to 62 P.S. §§ 901—922 and 1001—1059, orders:

(a) The regulations of the Department, 55 Pa. Code Chapters 1153 and 5200 are amended to read as set forth in Annex A of this Order.

(b) The Secretary of the Department shall submit this Order and Annex A to the Office of General Counsel and Attorney General for approval as to legality and form as required by law.

(c) The Secretary of the Department shall certify and deposit this Order and Annex A with the Legislative Reference Bureau as required by law.

(d) This order shall take effect upon final publication in the *Pennsylvania Bulletin*.

ANNEX A

TITLE 55. PUBLIC WELFARE

PART III. MEDICAL ASSISTANCE MANUAL

CHAPTER 1153 OUTPATIENT [PSYCHIATRIC] BEHAVIORAL HEALTH SERVICES

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SCOPE OF BENEFITS

§ 1153.21. Scope of benefits for [the categorically needy] children under 21 years of age.

§ 1153.22. Scope of benefits for [the medically needy] adults 21 years of age or older.

§ 1153.23. [Scope of benefits for State Blind Pension recipients.] (Reserved).

§ 1153.24. [Scope of benefits for General Assistance recipients.] (Reserved).

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GENERAL PROVISIONS

§ 1153.1. Policy.

The MA Program provides payment for specific medically necessary psychiatric outpatient clinic services, MMHT services and psychiatric outpatient partial hospitalization services rendered to eligible [recipients] ~~individuals~~ MA BENEFICIARIES by psychiatric outpatient clinics and psychiatric outpatient partial hospitalization facilities enrolled as providers under the program. Payment for [outpatient psychiatric] behavioral health services is subject to the provisions of this chapter, Chapter 1101 (relating to general provisions) and the limitations established in

Chapter 1150 (relating to [the] MA Program payment policies) and the MA Program [fee schedule] Fee Schedule.

§ 1153.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

~~*Adult*—An individual 21 years of age or older.~~

Adult partial hospitalization program - A program licensed by the Department, Office of Mental Health and Substance Abuse Services, to provide partial hospitalization services to individuals 15 years of age or older.

ADVANCED PRACTICE PROFESSIONAL - A PERSON WHO HOLDS A CURRENT PENNSYLVANIA LICENSE AS A CERTIFIED REGISTERED NURSE PRACTITIONER OR A PHYSICIAN ASSISTANT AND:

(1) HOLDS A MENTAL HEALTH CERTIFICATION, OR

(2) OBTAINS A MENTAL HEALTH CERTIFICATION WITHIN 2 YEARS OF BEING HIRED BY THE PSYCHIATRIC OUTPATIENT CLINIC OR WITHIN 2 YEARS OF JULY 30, 2020, WHICHEVER IS LATER.

Children and youth partial hospitalization program - A program licensed by the Department, Office of Mental Health and Substance Abuse Services, to provide partial hospitalization services to individuals ~~14 years of age or younger~~ UNDER 15 YEARS OF AGE.

* * * * *

Collateral family psychotherapy - Psychotherapy provided to the family members of [a clinic patient in the absence of that patient] an individual receiving psychiatric outpatient clinic services in the absence of the individual.

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Facility - A mental health establishment, hospital, clinic, institution, center or other organizational unit or part thereof, the primary function of which is the diagnosis, treatment, care and rehabilitation of individuals with mental illness or emotional disturbance.

* * * * *

Family psychotherapy - Psychotherapy provided to two or more members of a family. At least one family member shall have a diagnosed mental [disorder] illness or emotional disturbance. Sessions shall be [at least ½ hour in duration and shall be] conducted by a clinical staff person.

Group psychotherapy - Psychotherapy provided to no less than [two] 2 and no more than [ten] 12 persons with diagnosed mental [disorders for a period of at least 1 hour] illness or emotional disturbance. These sessions shall be conducted by a clinical staff person.

[Home visit - A visit made to an eligible recipient's place of residence, other than a treatment institution or nursing home, for the purpose of observing the patient in the home setting or providing a compensable outpatient psychiatric service.]

Individual Psychotherapy - Psychotherapy provided to one person with a diagnosed mental [disorder for a minimum of 1/2 hour] illness or emotional disturbance. These sessions shall be conducted by a clinical staff person.

Inpatient SERVICES - [A patient] TREATMENT PROVIDED TO AN ~~An~~ individual who has been admitted to a treatment institution or an acute care hospital or psychiatric hospital on the recommendation of a physician and is receiving room, board and professional services in the facility on a continuous 24-hour-a-day basis.

Intake - [The first contact with a patient for initiation or renewal of services.] The first contact with an individual for the initiation of or re-admission to outpatient behavioral health services covered by this chapter.

INTERACTIVE AUDIO AND VIDEO - REAL-TIME TWO-WAY OR MULTIPLE-WAY COMMUNICATION.

[Mental disorder–Conditions characterized as mental disorder by the International Classification of Diseases---ICD-9-CM ---including mental retardation with associated psychiatric conditions (ICD-9-CM codes 317 to 319) and excluding drug/alcohol conditions ([ICD-9-CM] codes 291----292.9.]

LPHA - Licensed Practitioner of the Healing Arts - A person who is licensed by the Commonwealth to practice the healing arts. This term is limited to a physician, physician's assistant, certified registered nurse practitioner, LICENSED CLINICAL SOCIAL WORKER, LICENSED MARRIAGE AND FAMILY THERAPIST, LICENSED PROFESSIONAL COUNSELOR or psychologist.

MMHT- Mobile Mental Health Treatment - One or more of the following services provided in an individual's residence or approved community site:

(i) Assessment.

(ii) Individual, group or family therapy.

(iii) Medication visits.

Mental health professional - [A person trained in a generally recognized clinical discipline including but not limited to psychiatry, social work, psychology or nursing, rehabilitation or activity therapies who has a graduate degree and clinical experience.] A person who meets one of the following:

(i) Has a graduate degree from a college or university that is accredited by an agency recognized by the United States Department of Education or the Council for Higher Education Accreditation (CHEA) in a generally recognized clinical discipline ~~which includes mental health clinical experience~~ IN WHICH THE DEGREE PROGRAM INCLUDES A CLINICAL PRACTICUM.

(ii) Has an equivalent degree from a foreign college or university that has been evaluated by the Association of International Credential Evaluators, Inc. (AICE) or the National Association of Credential Evaluation Services (NACES). The Department will accept a general equivalency report from the listed evaluator agencies to verify a foreign degree or its equivalency.

(iii) Is licensed in a generally recognized clinical discipline ~~which~~ THAT includes mental health clinical experience.

Mental health worker - [A person who does not have a graduate degree in a clinical discipline but who by training and experience has achieved recognition as a mental health worker, or a person with a graduate degree in a clinical discipline.] A person acting under the supervision of a mental health professional to provide services who meets one of the following:

(i) Has a bachelor's degree from a college or university that is accredited by an agency recognized by the United States Department of Education or the CHEA in a

recognized clinical discipline including social work, psychology, nursing, rehabilitation or activity therapies.

(ii) Has a graduate degree in a clinical discipline with 12 graduate-level credits in mental health or counseling from a program that is accredited by an agency recognized by the United States Department of Education or the CHEA.

(iii) Has an equivalent degree from a foreign college or university that has been evaluated by the AICE or the NACES. The Department will accept a general equivalency report from the listed evaluator agencies to verify a foreign degree or its equivalency.

Mental illness or emotional disturbance - A mental ~~illness or emotional disturbance~~ DISORDER that meets the diagnostic criteria within the current version of the *Diagnostic and Statistical Manual OF MENTAL DISORDERS* or the International Classification of Diseases. ~~A mental illness or emotional disturbance is characterized by clinically significant disturbances in an individual's cognition, emotional regulation or behavior that reflects a dysfunction in the psychological, biological or developmental processes underlying mental functioning.~~

Outpatient SERVICES - [A person] ~~An individual who is not a resident of a treatment institution and who is receiving covered medical and [psychiatric services at an approved or licensed outpatient psychiatric] behavioral health services from a licensed psychiatric outpatient clinic or partial hospitalization facility which is not providing [him] the individual with room and board and professional services on a continuous 24 hour a day basis.~~ MEDICAL OR BEHAVIORAL HEALTH SERVICES PROVIDED TO AN INDIVIDUAL BY A PSYCHIATRIC OUTPATIENT CLINIC OR PARTIAL

HOSPITALIZATION OUTPATIENT FACILITY THAT DOES NOT PROVIDE ROOM, BOARD AND PROFESSIONAL SERVICES ON A CONTINUOUS 24-HOUR-A-DAY BASIS.

Psychiatric clinic clozapine monitoring and evaluation visit - A [minimum 15-minute] visit for the monitoring and evaluation of [a patient's] an individual's physical and mental condition during the course of treatment with clozapine. The term includes only a visit provided to an eligible [recipient] individual receiving clozapine therapy, and only by a psychiatrist, physician, certified registered nurse practitioner, registered nurse [(RN),] or physician assistant.

Psychiatric clinic medication visit - A [minimum 15-minute] visit only for administration of a drug and evaluation of [a patient's physical and] an individual's physical or mental condition during the course of prescribed medication. This visit is provided to an eligible [recipient] individual only by a psychiatrist, physician, certified registered nurse practitioner, physician assistant, registered nurse or licensed practical nurse [who is a graduate of a school approved by the State Board of Nursing or who has successfully completed a course in the administration of medication approved by the State Board of Nursing].

Psychiatric evaluation - An initial mental status examination and evaluation of [a patient provided only by a psychiatrist in a face-to-face interview with the patient] an individual provided only by a psychiatrist in a face-to-face interview or ~~using real-time, two-way interactive audio-video transmission with prior written approval from the Department with the individual~~ THROUGH THE USE OF INTERACTIVE AUDIO AND VIDEO COMMUNICATION THAT CONFORMS TO INDUSTRY-WIDE TECHNOLOGY

STANDARDS AND IS IN COMPLIANCE WITH STATE AND FEDERAL PRIVACY AND SECURITY LAWS. It [shall] must include a comprehensive history and evaluation of pertinent diagnostic information necessary to arrive at a diagnosis and ~~treatment plan,~~ recommendations for treatment or further diagnostic studies or consultation. The history [shall] must include individual, social, family, occupational, drug, medical and previous psychiatric diagnostic and treatment information.

Psychiatric outpatient clinic [provider] PROVIDER - A facility [approved by the Department, Office of Medical Assistance, and fully approved/licensed] ENROLLED IN THE MA PROGRAM TO PROVIDE PSYCHIATRIC OUTPATIENT CLINIC SERVICES AND ~~fully~~ licensed by the Department, Office of Mental Health and Substance Abuse Services, to provide specific medical, psychiatric and psychological services for the diagnosis and treatment of mental [disorders] illness or emotional disturbance. [Treatment is provided to eligible Medical Assistance outpatient recipients who are not residents of a treatment institution or receiving similar treatment elsewhere.]

Psychiatric outpatient clinic services - Outpatient medical, psychiatric and psychological services listed in the MA Program Fee Schedule furnished to [a mentally disordered outpatient while the person] an individual with mental illness or emotional disturbance while the individual is not a resident of a treatment institution, provided by or under the ~~supervision~~ DIRECTION of a psychiatrist [in a facility organized and operated to provide medical care to outpatients].

Psychiatric outpatient partial hospitalization provider - A facility [approved by the Department of Human Services, Office of Medical Assistance] enrolled in the MA Program to provide partial hospitalization OUTPATIENT services and ~~fully~~

[approved/licensed] licensed by the Department, Office of Mental Health and Substance Abuse Services, to provide psychiatric, medical, psychological and psychosocial services as partial hospitalization for the diagnosis and treatment of mental [disorders] illness ~~and~~ OR emotional disturbance. [Treatment is provided to eligible MA outpatient recipients who are not residents of a treatment institution or receiving similar treatment elsewhere].

Psychiatric partial hospitalization - An active outpatient psychiatric day or evening treatment session including medical, psychiatric, psychological[,] and psychosocial treatment listed in the MA Program Fee Schedule. This service shall be provided to [mentally disordered outpatients in a supervised, protective setting for a minimum of 3 hours and a maximum of 6 hours in a 24-hour period] an individual with mental illness or emotional disturbance ~~in a supervised, protective setting.~~ ON A PLANNED AND REGULARLY SCHEDULED BASIS FOR A MINIMUM OF 3 HOURS BUT LESS THAN 24 HOURS IN ANY 1 DAY. The session shall be provided by a psychiatrist or by psychiatric partial hospitalization personnel under the ~~supervision~~ DIRECTION of a psychiatrist.

* * * * *

Psychotherapy - The treatment, by psychological means, of the problems of an emotional nature in which a trained person deliberately establishes a professional relationship with [the patient with the object of removing, modifying or retarding] an individual with the objective of removing, modifying or relieving existing symptoms of mediating disturbed patterns of behavior and of promoting positive personality growth and development.

TELE-BEHAVIORAL HEALTH -

(i) THE USE OF INTERACTIVE AUDIO AND VIDEO COMMUNICATION TO PROVIDE CLINICAL SERVICES AT A DISTANCE USING TECHNOLOGY THAT CONFORMS TO THE INDUSTRY-WIDE STANDARDS AND IS IN COMPLIANCE WITH STATE AND FEDERAL PRIVACY AND SECURITY LAWS.

(ii) TELE-BEHAVIORAL HEALTH DOES NOT INCLUDE TELEPHONE CONVERSATION, ELECTRONIC MAIL MESSAGE, OR FACSIMILE TRANSMISSION BETWEEN A PSYCHIATRIST OR AN ADVANCED PRACTICE PROFESSIONAL AND AN INDIVIDUAL RECEIVING SERVICES, OR A CONSULTATION BETWEEN TWO HEALTH CARE PRACTITIONERS, ALTHOUGH THESE ACTIVITIES MAY SUPPORT THE DELIVERY OF TELE-BEHAVIORAL HEALTH.

~~*Supervision by a psychiatrist* – The psychiatrist [personally] provides or orders, guides and oversees compensable medical, psychiatric and psychological services provided to [recipients] individuals by psychiatric outpatient clinic or partial hospitalization personnel as specified in § 1153.52(a) (relating to payment conditions for various services).~~

Treatment institution - A facility approved or licensed by the Department or its agents that provides [full-or part time psychiatric treatment services for resident patients with mental disorders –mental retardation residential facilities] full-time psychiatric treatment services for resident individuals with mental illness or emotional disturbance, RESIDENTIAL ~~residential~~ facilities for individuals with intellectual disabilities or community residential rehabilitation services are not considered to be mental health treatment institutions.

UNDER THE DIRECTION OF A PSYCHIATRIST - RECEIVING OVERSIGHT AND CONSULTATION BY A PSYCHIATRIST IN THE MEDICAL, PSYCHIATRIC AND PSYCHOLOGICAL SERVICES PROVIDED TO INDIVIDUALS BY PSYCHIATRIC OUTPATIENT CLINIC OR PARTIAL HOSPITALIZATION PERSONNEL.

COVERED AND NONCOVERED SERVICES

§ 1153.11. Types of services covered.

Medical Assistance Program coverage for [outpatient] psychiatric outpatient clinics, [and] partial hospitalization OUTPATIENT facilities and MMHT services is limited to professional medical and psychiatric services for the diagnosis and treatment of mental [disorders, including mental retardation] illness or emotional disturbance, including A MENTAL ILLNESS OR EMOTIONAL DISTURBANCE ALONG WITH AN INTELLECTUAL DISABILITY ~~intellectual disabilities~~, as specified in the MA Program Fee Schedule PROVIDED BY PSYCHIATRIC OUTPATIENT CLINIC PROVIDERS AND PSYCHIATRIC OUTPATIENT PARTIAL HOSPITALIZATION PROVIDERS TO MA BENEFICIARIES.

§ 1153.12. Outpatient services.

The [outpatient] psychiatric outpatient clinic services specified in the MA Program Fee Schedule and the ~~outpatient~~ psychiatric partial hospitalization OUTPATIENT services specified in the MA Program Fee Schedule are covered only when provided by [approved outpatient psychiatric] licensed psychiatric outpatient clinics or psychiatric partial hospitalization OUTPATIENT facilities ~~when ordered by~~ UNDER THE DIRECTION OF a psychiatrist. MMHT services specified in the MA Program Fee Schedule are covered only when provided by a licensed psychiatric outpatient clinic

that has an approved service description for MMHT. Payment is subject to the conditions and limitations established in this chapter and Chapter 1101 (relating to general provisions).

§ 1153.14. Noncovered services.

Payment will not be made for the following types of services regardless of where or to whom they are provided:

(1) A covered [clinic] psychiatric outpatient clinic, MMHT or partial hospitalization OUTPATIENT service conducted over the telephone.

* * * * *

(4) [A] An MA covered service, including psychiatric [clinic] outpatient clinic, MMHT and partial hospitalization OUTPATIENT services, provided to inmates of State or county correctional institutions or committed residents of public institutions.

(5) Psychiatric outpatient clinic, MMHT or partial hospitalization OUTPATIENT services to residents of treatment institutions, such as[, persons] individuals who are also being provided with room or board or both, and services, on a 24-hour-a-day basis by the same facility or distinct part of a facility or program.

(6) Services delivered at locations other than [approved psychiatric outpatient clinics or partial hospitalization facilities with the exception of home visits under the conditions specified in §1153.52(d) (relating to payment conditions for various services)] licensed psychiatric outpatient clinics with the exception of MMHT under the conditions specified in §1153.52(d) (relating to payment conditions for various services) or partial hospitalization OUTPATIENT facilities.

* * * * *

(9) Psychiatric outpatient clinic services, MMHT SERVICES and psychiatric partial hospitalization OUTPATIENT SERVICES provided on the same day to the same [patient] individual, WITH THE EXCEPTION OF CLINICAL SERVICES NOT OFFERED BY THE FACILITY PROVIDING SERVICES TO THE INDIVIDUAL.

(10) Covered psychiatric outpatient clinic services, MMHT SERVICES and psychiatric partial hospitalization OUTPATIENT services, with the exception of family psychotherapy, provided to persons without a mental [disorder or mental retardation] illness or emotional disturbance ~~or an intellectual disability~~ diagnosis rendered by a psychiatrist in accordance with the current version of the *Diagnostic and Statistical Manual OF MENTAL DISORDERS* or the International Classification of Diseases--- [ICD-9-CM, Chapter V, "Mental Disorders."] Chapter V, "Mental, Behavioral, and Neurodevelopmental Disorders."

(11) [Psychiatric outpatient clinic and psychiatric partial hospitalization services provided to patients with drug/alcohol abuse or dependence problems, such as alcohol dependence and nondependent abuse of drugs, alcohol psychoses, and drug psychoses, unless the patient has a primary diagnosis of a nondrug/alcohol abuse/dependence related mental disorder.] Psychiatric outpatient clinic, MMHT and psychiatric partial hospitalization OUTPATIENT services provided to individuals with substance-related and addictive disorders, unless the individual has a primary diagnosis of a mental illness or emotional disturbance.

(12) Drugs [and], biologicals and supplies furnished to [psychiatric clinic or psychiatric partial hospitalization patients during a visit to the] an individual receiving services at a psychiatric outpatient clinic or a partial hospitalization OUTPATIENT

facility during a visit to the psychiatric outpatient clinic or PARTIAL HOSPITALIZATION OUTPATIENT facility. These are included in the psychiatric outpatient clinic medication visit fee or partial hospitalization session payment. Separate billings from any source for items and services provided [in the] by the psychiatric outpatient clinic are noncompensable.

* * * * *

(14) [Home visits] MMHT services not provided in accordance with the conditions specified in § 1153.52(d).

(15) Services provided beyond the [15th] 30th calendar day following intake, without ~~the psychiatrist's~~ review and approval of the initial assessment and treatment plan IN ACCORDANCE WITH § 1153.52(A)(7)(8) (RELATING TO PAYMENT CONDITIONS FOR VARIOUS SERVICES).

(16) The hours that the [client] individual participates in an education program delivered in the same setting as a children and youth partial hospitalization OUTPATIENT program unless, in addition to the teacher, a clinical staff person works with the child in the classroom. The Department will reimburse for only that time during which the [client] individual is in direct contact with a clinical staff person.

(17) Group psychotherapy provided in the [patient's] individual's home.

(18) Psychiatric [clinic] outpatient clinic ~~MMHT~~ and partial hospitalization OUTPATIENT services provided to nursing home residents on the grounds of the nursing home or under the corporate umbrella of the nursing home.

(19) Electroconvulsive therapy and electroencephalogram provided through MMHT.

(20) MMHT SERVICES provided on the same day as other home and community-based behavioral health services to the same individual WITH THE EXCEPTION OF CLINICAL SERVICES NOT OFFERED BY THE PSYCHIATRIC OUTPATIENT CLINIC.

~~(21) MMHT services provided as a substitute for transportation to the psychiatric outpatient clinic.~~

SCOPE OF BENEFITS

§ 1153.21. Scope of benefits for [the categorically needy] children under 21 years of age.

[Categorically needy recipients] Children under 21 years of age are eligible for the full range of covered psychiatric outpatient clinic, MMHT and psychiatric partial hospitalization services in the MA Program Fee Schedule.

§ 1153.22. Scope of benefits for [the medically needy] adults 21 years of age or older.

[Medically needy recipients] Adults 21 years of age or older are eligible for the full range of covered psychiatric outpatient clinic, MMHT and psychiatric partial hospitalization services in the MA Program Fee Schedule.

§ 1153.23. [Scope of benefits for State Blind Pension recipients] (Reserved).

[State Blind Pension recipients are eligible for the full range of covered psychiatric outpatient clinic and psychiatric partial hospitalization services in the MA Program fee schedule.]

§ 1153.24. [Scope of benefits for General Assistance recipients] (Reserved).

[General Assistance recipients, age 21 to 65, whose MA benefits are funded solely by State funds, are eligible for medically necessary basic health care benefits as defined

in Chapter 1101 (relating to general provisions). See § 1101.31(e) (relating to scope).]

PROVIDER PARTICIPATION

§ 1153.41. Participation requirements.

In addition to the participation requirements established in Chapter 1101 (relating to general provisions), [outpatient] psychiatric outpatient clinics and ~~outpatient~~ partial hospitalization OUTPATIENT facilities shall meet the following participation requirements:

(1) Have ~~a~~ current ~~full~~ [licensure/approval] licensure as a psychiatric outpatient clinic or partial hospitalization outpatient facility by the Department's Office of Mental Health and Substance Abuse Services. To remain eligible for MA reimbursement, a psychiatric outpatient clinic or partial hospitalization OUTPATIENT facility shall be ~~fully~~ [licensed/approved] licensed at all times as a psychiatric outpatient clinic or partial hospitalization outpatient facility.

* * * * *

(3) Have a written [patient] referral plan for individuals receiving services that provides for inpatient hospital care and follow-up treatment.

* * * * *

(5) Appoint an administrator or director responsible for the internal operation of the psychiatric outpatient clinic or partial hospitalization OUTPATIENT facility. Appoint a psychiatrist or psychiatrists responsible for the supervision and direction of services rendered to eligible [recipients] individuals.

(6) Notify immediately the Department, Office of Medical Assistance [,Bureau of Provider Relations, in writing] Programs, Bureau of Fee-for-Services, in the manner

prescribed by the Department, of [a] facility or clinic name, address[,] and service changes prior to the effective date of change. Failure to do so may result in payment interruption or termination of the provider agreement.

* * * * *

(8) Have each branch location or satellite of [an approved] a licensed psychiatric outpatient clinic or partial hospitalization OUTPATIENT facility also licensed [or approved] by the Office of Mental Health and Substance Abuse Services as a psychiatric outpatient clinic site or psychiatric hospitalization OUTPATIENT facility, whichever is applicable, and [approved] enrolled by the Office of Medical Assistance Programs before reimbursement can be made for services rendered at the branch or satellite. [Approval] Licensure and enrollment of the parent organization does not constitute [approval] licensure and enrollment for any branches or satellites of the same organization.

(9) [Be approved by the Department's Office of Medical Assistance.] Be enrolled as a provider in the Medical Assistance Program.

(10) Have medications prescribed by a licensed ~~[physician] practitioner within his scope of practice~~ PSYCHIATRIST, PHYSICIAN, CERTIFIED REGISTERED NURSE PRACTITIONER OR PHYSICIAN ASSISTANT WITHIN THE PRACTITIONER'S SCOPE OF PRACTICE.

(11) Psychiatric outpatient clinics providing MMHT SERVICES shall have a service description approved by the Department under the conditions specified in § 5200.51 (relating to provider service description).

* * * * *

§ 1153.42. Ongoing responsibilities of providers.

(a) *Responsibilities of providers.* Ongoing responsibilities of providers are established in Chapter 1101 (relating to general provisions). [Outpatient psychiatric] Psychiatric outpatient clinics and ~~outpatient~~ psychiatric partial hospitalization OUTPATIENT facilities shall also adhere to the additional requirements established in this section.

(b) *Recordkeeping requirements.* In addition to the requirements listed in § 1101.51(e) (relating to ongoing responsibilities of providers), the following items [shall] must be included in the ~~medical~~ records of MA BENEFICIARIES [MA patients receiving outpatient psychiatric clinic] ~~individuals~~ receiving psychiatric outpatient clinic, MMHT and ~~outpatient~~ psychiatric partial hospitalization OUTPATIENT services:

(1) The treatment plan [shall] must include:

* * * * *

(ii) Services to be provided to the [patient] individual ~~in~~ BY the PSYCHIATRIC OUTPATIENT clinic or partial hospitalization OUTPATIENT facility or through referral.

* * * * *

PAYMENT FOR OUTPATIENT [PSYCHIATRIC CLINIC AND OUTPATIENT PSYCHIATRIC PARTIAL HOSPITALIZATION] BEHAVIORAL HEALTH SERVICES

§ 1153.51. General payment policy.

(a) Payment is made for medically necessary professional medical and psychiatric services provided by or under the supervision and direction of a psychiatrist [in participating outpatient psychiatric] by participating psychiatric outpatient clinics and ~~outpatient~~ psychiatric partial hospitalization OUTPATIENT facilities subject to the

conditions and limitations established in this chapter and Chapters 1101 and 1150 (relating to general provisions; and MA Program payment policies) and the MA Program Fee Schedule.

(b) THE DEPARTMENT WILL PUBLISH PROCEDURES FOR THE USE OF TELE-BEHAVIORAL HEALTH TO PROVIDE COMPENSABLE PSYCHIATRIC OUTPATIENT CLINC OR PSYCHIATRIC PARTIAL HOSPITALIZATION SERVICES IN THE PENNSYLVANIA BULLETIN.

(c) Payment will not be made for a compensable psychiatric [clinic] outpatient clinic, MMHT or psychiatric partial hospitalization OUTPATIENT service if payment is available from another public agency or another insurance or health program.

§ 1153.52. Payment conditions for various services.

(a) The following conditions shall be met by [outpatient] psychiatric outpatient clinics and partial hospitalization OUTPATIENT programs, as applicable, to be eligible for payment:

(1) A psychiatrist shall be present in the psychiatric outpatient clinic and ~~outpatient~~ partial hospitalization OUTPATIENT facility, as required by the Office of Mental Health [approval/licensing] and Substance Abuse Services licensing regulations, to perform or supervise the performance of all covered services provided to [MA patients] ~~individuals receiving~~ MA BENEFICIARIES ~~benefits~~.

(2) Psychiatric evaluations shall be performed only by a psychiatrist in a face-to-face interview [with the patient] or using ~~a real-time, two-way interactive audio-video transmission with prior written approval from the Department with the individual.~~ INTERACTIVE AUDIO AND VIDEO COMMUNICATION THAT CONFORMS TO

INDUSTRY-WIDE TECHNOLOGY STANDARDS WITH THE INDIVIDUAL AND IS IN COMPLIANCE WITH STATE AND FEDERAL PRIVACY AND SECURITY LAWS. Additional interviews with other staff may be included as part of the examination but shall be included in the psychiatric evaluation fee. Separate billings for these additional interviews are not compensable.

* * * * *

(6) The psychiatric outpatient clinic medication visit shall be provided only by a psychiatrist, physician, certified registered nurse practitioner, physician assistant, registered nurse or licensed practical nurse [who is a graduate of a school approved by the State Board of Nursing or who has successfully completed a course in the administration of medication approved by the State Board of Nursing].

(7) Within [15] 30 consecutive calendar days following intake for individuals who continue to participate in the treatment process, a mental health professional or mental health worker under the supervision of a mental health professional, shall: [examine and initially assess each patient in the clinic; determine the patient's diagnosis and prepare an initial treatment plan] ~~interview and initially assess each individual in the psychiatric outpatient clinic; determine the individual's diagnosis and prepare an initial treatment plan in collaboration with the individual; and date and sign the examination, diagnosis and treatment plan in the [patient's] medical record. The treatment plan shall be developed, maintained and periodically reviewed in accordance with the following criteria:~~

~~(i) The psychiatrist shall verify each [patient's] individual's diagnosis and approve the initial treatment plan prior to the provision of any treatment beyond the~~

[15th] 30th day following intake. This review and approval shall be dated and signed in the [patient's] medical record.

(ii) [The psychiatrist and mental health professional, or mental health worker under the supervision of a mental health professional, shall review and update each patient's treatment plan at least every 120 days or 15 clinic visits, whichever is first, or, as may otherwise be required by law throughout the duration of treatment. Each review and update shall be dated, documented and signed in the patient's record by the psychiatrist and mental health professional.] The mental health professional or mental health worker under the supervision of a mental health professional and in collaboration with the individual receiving services shall review and update the treatment plan at least every 180 days or as may otherwise be required by law throughout the duration of treatment. Each update shall be dated, documented and signed in the medical record by the mental health professional and the individual receiving services.

(iii) The treatment plan and updates shall be based upon the evaluation and diagnosis. Treatment shall be provided in accordance with the identified goals in the treatment plan and updates. Psychiatrists' reviews and [reevaluations] re-evaluations of diagnoses, treatment plans and updates shall be done within 1 year of the previous psychiatric review with the mental health professional or mental health worker under the supervision of a mental health professional, [in the clinic and, whenever possible with the patient] by the psychiatric outpatient clinic and with the individual receiving services. The review shall be dated and signed in the medical record.

~~(8) The psychiatric clinic clozapine monitoring and evaluation visit shall be used only for a person receiving clozapine therapy.~~

(i) INTERVIEW AND COMPLETE AN ASSESSMENT WITH EACH INDIVIDUAL RECEIVING SERVICES FROM THE PSYCHIATRIC OUTPATIENT CLINIC.

(ii) DEVELOP THE INITIAL TREATMENT PLAN BASED UPON THE ASSESSMENT IN COLLABORATION WITH THE INDIVIDUAL.

(iii) DATE AND SIGN THE INITIAL TREATMENT PLAN.

(iv) REQUEST THE INDIVIDUAL TO SIGN AND DATE THE TREATMENT PLAN. IN THE EVENT THE INDIVIDUAL DOES NOT SIGN THE TREATMENT PLAN, THE MENTAL HEALTH PROFESSIONAL OR MENTAL HEALTH WORKER SHALL DOCUMENT THE REQUEST IN THE RECORD.

(8) THE INITIAL TREATMENT PLAN SHALL BE REVIEWED AND APPROVED IN ACCORDANCE WITH THE FOLLOWING:

(i) IF THE INDIVIDUAL IS RECEIVING PSYCHOTHERAPY AND OTHER CLINIC SERVICES, THE PSYCHIATRIST OR ADVANCED PRACTICE PROFESSIONAL SHALL REVIEW, APPROVE, SIGN AND DATE THE INITIAL TREATMENT PLAN.

(ii) IF THE INDIVIDUAL IS RECEIVING MEDICATION MANAGEMENT SERVICES ONLY, THE PSYCHIATRIST, PHYSICIAN, CERTIFIED REGISTERED NURSE PRACTITIONER OR PHYSICIAN ASSISTANT RESPONSIBLE FOR

PRESCRIBING AND MONITORING THE USE OF THE MEDICATIONS SHALL SIGN AND DATE THE INITIAL TREATMENT PLAN.

(iii) THE INITIAL TREATMENT PLAN SHALL BE DEVELOPED, REVIEWED, APPROVED, DATED AND SIGNED PRIOR TO THE PROVISION OF ANY TREATMENT SERVICES BEYOND THE 30th DAY FOLLOWING INTAKE.

(iv) THE INITIAL TREATMENT PLAN SHALL BE KEPT IN THE INDIVIDUAL RECORD.

(9) THE TREATMENT PLAN SHALL BE REVIEWED AND UPDATED AT LEAST EVERY 180 DAYS OR AS MAY OTHERWISE BE REQUIRED BY LAW THROUGHOUT THE DURATION OF TREATMENT IN ACCORDANCE WITH THE FOLLOWING:

(i) THE TREATMENT PLAN UPDATES SHALL BE BASED UPON THE ASSESSMENT, DIAGNOSIS AND INPUT FROM THE TREATMENT TEAM AND INDIVIDUAL RECEIVING SERVICES.

(ii) THE TREATMENT PLAN UPDATE SHALL BE SIGNED AND DATED BY THE MENTAL HEALTH PROFESSIONAL, MENTAL HEALTH WORKER UNDER THE SUPERVISION OF THE MENTAL HEALTH PROFESSIONAL, CERTIFIED REGISTERED NURSE PRACTITIONER OR PHYSICIAN ASSISTANT PROVIDING TREATMENT SERVICES TO THE INDIVIDUAL.

(iii) THE MENTAL HEALTH PROFESSIONAL OR THE MENTAL HEALTH WORKER SHALL REQUEST THE INDIVIDUAL TO SIGN AND DATE THE TREATMENT PLAN UPDATE. IN THE EVENT THE INDIVIDUAL DOES NOT

SIGNTHE TREATMENT PLAN, THE MENTAL HEALTH PROFESSIONAL OR MENTAL HEALTH WORKER SHALL DOCUMENT THE REQUEST IN THE RECORD.

(iv) THE TREATMENT PLAN UPDATE SHALL BE KEPT IN THE INDIVIDUAL RECORD.

(10) TREATMENT SHALL BE PROVIDED IN ACCORDANCE WITH THE IDENTIFIED GOALS IN THE TREATMENT PLAN AND UPDATES.

(11) THE TREATMENT PLAN SHALL BE REVIEWED ON AN ANNUAL BASIS BY THE PSYCHIATRIST OR ADVANCED PRACTICE PROFESSIONAL THROUGHOUT THE COURSE OF TREATMENT FROM THE PSYCHIATRIC OUTPATIENT CLINIC AND THE REVIEW DOCUMENTED IN THE INDIVIDUAL RECORD.

(12) THE PSYCHIATRIC CLINIC CLOZAPINE MONITORING AND EVALUATION VISIT SHALL BE USED ONLY FOR AN INDIVIDUAL RECEIVING CLOZAPINE THERAPY.

(b) *Psychiatric outpatient partial hospitalization.* Payment will only be made for psychiatric ~~outpatient~~ partial hospitalization OUTPATIENT SERVICES provided to eligible [patients with mental disorders in approved] individuals with mental illness or emotional disturbance in ~~licensed~~ psychiatric ~~outpatient~~ partial hospitalization OUTPATIENT facilities under the following conditions:

(1) [Patients] Individuals receiving partial hospitalization OUTPATIENT services shall meet the following criteria:

* * * * *

(iii) ~~Have a psychiatric condition requiring provision of supervised, protective setting for a prescribed time period to prevent institutionalization or ease the transition from inpatient care to more independent living.~~ BE DIAGNOSED WITH A MENTAL ILLNESS OR EMOTIONAL DISTURBANCE AND PRESCRIBED SERVICES FOR A PERIOD OF AT LEAST 3 HOURS BUT LESS THAN 24 HOURS IN ANY ONE DAY TO PREVENT HOSPITALIZATION OR TO SUPPORT THE TRANSITION FROM INPATIENT TREATMENT TO OUTPATIENT SERVICES.

(2) The following components shall be available in [an approved] a ~~licensed~~ psychiatric partial hospitalization OUTPATIENT facility and provided to [the patient] an individual, if necessary, in accordance with the [patient's] individualized treatment plan:

* * * * *

(v) Medication administration and evaluation provided only by a psychiatrist, physician, CERTIFIED REGISTERED NURSE PRACTITIONER, PHYSICIAN ASSISTANT, registered nurse or licensed practical nurse.

* * * * *

(c) *Psychiatric outpatient clinic.* Payment will only be made for psychiatric outpatient clinic services [provided to eligible patients with mental disorders in approved] or MMHT services provided to eligible individuals with mental illness or emotional disturbance by ~~licensed~~ psychiatric outpatient clinics under the following conditions:

(1) [Psychiatric clinic medication] Medication visits shall be ~~a minimum duration of 15 minutes. They shall be~~ provided only for the purpose of administering medication and for evaluating the physical and mental condition of [the patient] an individual during the course of prescribed medication.

(2) [Patients receiving psychiatric clinic services shall have a mental disorder diagnosis verified by a psychiatrist.] Individuals receiving psychiatric outpatient clinic services or MMHT SERVICES shall have a mental illness or emotional disturbance diagnosis verified by a psychiatrist OR LPHA.

* * * * *

(4) [Psychiatric clinic clozapine] Clozapine monitoring and evaluation visits shall be ~~a minimum duration of 15 minutes. They shall be~~ provided only for [a person receiving clozaril and for monitoring and evaluating the patient's white blood cell count] an individual receiving clozapine and for monitoring and evaluating the individual's absolute neutrophil count to determine whether clozapine therapy should be continued or modified.

[(d) *Psychiatric clinic services provided in the home.* Psychiatric clinic services delivered in the patient's home are subject to the conditions and limitations established in the chapter. Home visits, as defined in § 1153.2 (relating to definitions), are compensable as outpatient psychiatric services listed in the MA Program Fee Schedule only if the physician's documentation in the patient's records and progress notes fully substantiates that one of the following conditions exists:

(1) The client's disability requires specialized transportation which is not generally available.

(2) The client has a behavior disorder which disrupts the clinic environment.

(3) The client has a diagnosis of agoraphobia.

(e) *Observation of the client in the home environment.* Observation of the client in the home environment is considered to be an individual psychotherapy services is and compensable only when:

(1) The client is currently in therapy.

(2) Observation of the client in his home setting is a necessary component of the client's psychotherapeutic regimen.]

(d) *MMHT.* MMHT services are subject to the conditions and limitations established in this chapter. MMHT services provided in the home or other approved community sites are compensable only if documentation in the ~~medical~~ INDIVIDUAL record substantiates all of the following:

(1) The services are provided to an eligible individual with mental illness or emotional disturbance.

(2) ~~The services are ordered by an LPHA.~~ THERE IS A WRITTEN RECOMMENDATION FOR MMHT SERVICES FROM A LPHA ACTING WITHIN THE SCOPE OF PROFESSIONAL PRACTICE.

(3) The services if provided in a psychiatric outpatient clinic would be medically necessary.

(4) The ~~evaluation~~ ASSESSMENT documents a mental or physical illness that impedes or precludes the individual's ability to participate in services at the psychiatric outpatient clinic.

(5) Treatment plan updates document the continued clinical need for MMHT services.

§ 1153.53. Limitations on payment.

[(a) Payment is subject to the following limitations:

(1) For recipients 21 years of age or older, 180 three-hour sessions, 540 total hours, of psychiatric partial hospitalization in a fiscal year per recipient, except for State Blind Pension recipients, for whom payment is limited to 240 3-hour sessions, 720 total hours, of psychiatric partial hospitalization in a consecutive 365-day period per recipient.

(2) At least 3 hours but no more than 6 hours of psychiatric partial hospitalization per 24-hour period.

(3) Two outpatient psychiatric evaluations in psychiatric clinics per patient per year.

(4) For recipients 21 years of age or older, a total of 5 hours or 10 one-half hour sessions of psychotherapy per recipient per 30-consecutive day period, except for State Blind Pension recipients, for whom payment is limited to a total of 7 hours or 14 one-half hour sessions of psychotherapy per recipient per 30-consecutive day period. This period begins on the first day that an eligible recipient receives an outpatient psychiatric clinic service listed in the MA Program Fee Schedule. Psychotherapy includes the total of individual, group, family, collateral family psychotherapy services and home visits provided per eligible recipient per 30-consecutive day period.

(5) Three psychiatric clinic medication visits per patient per 30-consecutive days in psychiatric outpatient clinics.

(6) One outpatient comprehensive diagnostic psychological evaluation or no more than $80 worth of individual psychological or intellectual evaluations in psychiatric clinics per patient per 365 consecutive days.

(7) The partial hospitalization fees listed in the MA Program Fee Schedule include payment for all services rendered to the patient during a psychiatric partial hospitalization session. Separate billings for individual services are not compensable.

(8) Partial hospitalization facilities licensed for adult programs will be reimbursed at the adult rate, regardless of the age of the client receiving treatment.

(9) Partial hospitalization facilities licensed as children and youth programs will be reimbursed at the child rate only when the client receiving treatment is 14 years of age or younger.

(10) Family psychotherapy and collateral family psychotherapy are compensable for only one person per session, regardless of the number of family members who participate in the session or the number of participants who are eligible for psychotherapy.

(11) Psychiatric clinic clozapine monitoring and evaluation visits are limited to five visits per patient per calendar month.

(12) Any combination of psychiatric clinic medication visits and psychiatric clinic clozapine monitoring and evaluation visits is limited to five per patient per calendar month.

(b) The Department is authorized to grant an exception to the limits specified in subsection (a)(1) and (4) as described in § 1101.31(f) (relating to scope).]

Payment is subject to the following limitations:

(1) Psychiatric partial hospitalization OUTPATIENT SERVICE is provided for at least 3 hours per 24-hour period.

(2) The partial hospitalization OUTPATIENT SERVICE fees listed in the MA Program Fee Schedule include payment for all services rendered to the individual during a psychiatric partial hospitalization OUTPATIENT session. Separate billings for individual services are not compensable.

(3) Partial hospitalization OUTPATIENT facilities licensed for adult programs will be reimbursed at the adult rate, regardless of the age of the individual receiving treatment.

(4) Partial hospitalization OUTPATIENT facilities licensed as children and youth programs will be reimbursed at the child rate only when the individual receiving treatment is UNDER 15 YEARS OF AGE ~~14 years of age or younger~~.

(5) Family psychotherapy and collateral family psychotherapy are compensable for only one person per session, regardless of the number of family members who participate in the session or the number of participants who are eligible for psychotherapy.

(6) MMHT group therapy shall be provided only in an approved community-based site as specified in the treatment plan to individuals receiving MMHT SERVICES from the psychiatric outpatient clinic.

§ 1153.53a. [Requests for waiver of hourly limits] (Reserved).

[(a) Clients who are 20 years of age or younger and who are diagnosed as having one of the medical conditions listed in this section, or conditions of equal severity, may request a waiver from the general limitation on the number of hours of covered services. The medical conditions are:

(1) Infantile autism.

(2) Atypical childhood psychosis.

(3) Borderline psychosis of childhood.

(4) Schizophrenia.

(5) Schizophrenic syndrome of childhood.

(6) Impulse control disorder.

(7) Early deprivation syndrome.

(8) Unsocialized aggressive reaction.

(9) Hyperkinetic conduct disorder.

(10) Over anxious disorder.

(11) Anorexia nervosa.

(12) Neurotic depression –with suicidal ideation.

(b) The request for a waiver shall be accompanied by supporting medical documentation and a second physician's certification as to the medical necessity of psychotherapy beyond the general limitation.

(c) The request for a waiver is reviewed by the Office of Mental Health, Bureau of Community Programs, and acted upon within 30 days of receipt. Failure to act within 30 days constitutes approval of the waiver.

(d) Waivers are granted for periods of up to 6 months. Requests for additional waivers shall be submitted 30 days prior to the expiration of an existing waiver and are reviewed under the same conditions as specified above.

(e) Request for waivers must be submitted to: Department of Human Services, Office Medical Assistance, Room 515 Health and Welfare Building, Harrisburg, Pennsylvania 17120.

(f) A denial of a waiver request may be appealed under the same terms and conditions as any denial of services. See Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings). Notice of a decision of waiver request will be mailed to the MA recipient and to the provider of services.]

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PART VII. MENTAL HEALTH MANUAL

SUBPART D. NONRESIDENTIAL

AGENCIES/FACILITIES/SERVICES

CHAPTER 5200. PSYCHIATRIC OUTPATIENT CLINICS

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STAFFING AND PERSONNEL

§ 5200.21. Qualifications and duties of the [director/clinic] director/clinical supervisor.

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§ 5200.24. Criminal history and child abuse certification.

TREATMENT STANDARDS

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§ 5200.33. DISCHARGE.

MISCELLANEOUS PROVISIONS

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§ 5200.42. [Drugs and medications] Medications.

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§ 5200.44. Quality assurance program.

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MOBILE MENTAL HEALTH TREATMENT

§ 5200.51. Provider service description.

§ 5200.52. Treatment plans.

~~§ 5200.53. Discharge.~~

GENERAL PROVISIONS

§ 5200.1. Legal base.

The legal authority for this chapter is sections 105 and 112 of the Mental Health Procedures Act (50 P.S. §{ }§ 7105 and 7112); section 201(2) of the Mental Health and [Mental Retardation] Intellectual Disability Act of 1966 (50 P.S. § 4201(2))[;] and section 1021 of the [Public Welfare] Human Services Code (62 P.S. § 1021).

§ 5200.2. Scope.

(a) This chapter provides standards for the licensing of freestanding [outpatient] psychiatric outpatient clinics under section 1021 of the [Public Welfare] Human Services Code (62 P.S. § 1021), and approval of psychiatric outpatient clinics which are a part of a health care facility as defined in section 802.1 of the Health Care Facilities Act (35 P.S. § 448.802a), and under sections 105 and 112 of the Mental Health Procedures Act (50 P.S. §[ ]§ 7105 and 7112).

(b) This chapter applies to private, nonprofit [corporations] or for-profit corporations and public entities which provide medical examination, diagnosis, care [and treatment to the mentally ill or the emotionally disturbed], treatment and support to individuals with mental illness or emotional disturbance on an outpatient basis and which participate in the public mental health program. This chapter does not apply to group or individual practice arrangements of private practitioners.

§ 5200.3. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Advanced practice professional - ~~A person who holds a current Pennsylvania license as one of the following:~~

~~(i) Certified registered nurse practioner with a mental health certification.~~

~~(ii) Physician assistant with a mental health certification or at least 1 year of experience working in a behavioral health setting under the supervision of a psychiatrist.~~ A PERSON WHO HOLDS A CURRENT PENNSYLVANIA LICENSE AS A CERTIFIED REGISTERED NURSE PRACTITIONER OR A PHYSICIAN ASSISTANT AND:

(1) HOLDS A MENTAL HEALTH CERTIFICATION, OR

(2) OBTAINS A MENTAL HEALTH CERTIFICATION WITHIN 2 YEARS OF BEING HIRED BY THE PSYCHIATRIC OUTPATIENT CLINIC OR WITHIN 2 YEARS OF JULY 30, 2020, WHICHEVER IS LATER.

Assessment - A face-to-face interview that includes an evaluation of the ~~psychiatric~~ BEHAVIORAL HEALTH, medical, psychological, social, vocational and educational factors important to the individual.

* * * * *

FTE - Full-time equivalent - Thirty-seven and one half hours per week.

Facility - A mental health establishment, hospital, clinic, institution, center or other organizational unit or part thereof, the primary function of which is the diagnosis,

treatment, care and rehabilitation of [mentally disabled persons] individuals with mental illness or emotional disturbance.

[Full-time equivalent (FTE) - Thirty-seven and one half hours per week of staff time.]

INTERACTIVE AUDIO AND VIDEO - REAL-TIME TWO-WAY OR MULTIPLE-WAY COMMUNICATION.

LPHA - Licensed Practitioner of the Healing Arts - A person who is licensed by the Commonwealth to practice the healing arts. The term is limited to a physician, physician assistant, certified registered nurse practitioner, LICENSED CLINICAL SOCIAL WORKER, LICENSED MARRIAGE AND FAMILY THERAPIST, LICENSED PROFESSIONAL COUNSELOR or psychologist.

MMHT- Mobile Mental Health Treatment - One or more of the following services provided in an individual's residence or approved community site:

(i) Assessment.

(ii) Individual, group or family therapy.

(iii) Medication visits.

Mental health professional - [A person trained in a generally recognized clinical discipline including but not limited to psychiatry, social work, psychology or nursing, rehabilitation or activity therapies who has a graduate degree and clinical experience.] A person who meets one of the following:

(i) Has a graduate degree from a college or university that is accredited by an agency recognized by the United States Department of Education or the Council for Higher Education Accreditation (CHEA) in a generally recognized clinical discipline

~~which includes mental health clinical experience~~ IN WHICH THE DEGREE PROGRAM INCLUDES A CLINICAL PRACTICUM.

(ii) Has an equivalent degree from a foreign college or university that has been evaluated by the Association of International Credential Evaluators, Inc. (AICE) or the National Association of Credential Evaluation Services (NACES). The Department will accept a general equivalency report from the listed evaluator agencies to verify a foreign degree or its equivalency.

(iii) Is licensed in a generally recognized clinical discipline ~~which~~ THAT includes mental health clinical experience.

Mental health worker - [A person without a graduate degree in a clinical discipline who by training and experience has achieved recognition as a mental health worker.] A person acting under the ~~direction~~ SUPERVISION of a mental health professional to provide services who meets one of the following:

(i) Has a bachelor's degree from a college or university that is accredited by an agency recognized by the United States Department of Education or the CHEA in a recognized clinical discipline including social work, psychology, nursing, rehabilitation or activity therapies.

(ii) Has a graduate degree in a clinical discipline with 12 graduate-level credits in mental health or counseling from a program that is accredited by an agency recognized by the United States Department of Education or the CHEA.

(iii) Has an equivalent degree from a foreign college or university that has been evaluated by the AICE or the NACES. The Department will accept a general

equivalency report from the listed evaluator agencies to verify a foreign degree or its equivalency.

Mental illness or emotional disturbance - A mental ~~illness or emotional disturbance~~ DISORDER that meets the diagnostic criteria within the current version of the *Diagnostic and Statistical Manual OF MENTAL DISORDERS* or the International Classification of Diseases (ICD). ~~A mental illness or emotional disturbance is characterized by clinically significant disturbances in an individual's cognition, emotional regulation, or behavior that reflects a dysfunction in the psychological, biological or developmental processes underlying mental functioning.~~

Psychiatric outpatient clinic [(outpatient)] - A nonresidential treatment setting in which psychiatric, psychological, social, educational and other related services are provided under medical supervision. It is designed for the evaluation and treatment of [patients with mental or emotional disorders] individuals with mental illness or emotional disturbance. [Outpatient] Psychiatric outpatient services are provided on a planned and regularly scheduled basis.

[*Psychiatric* nurse - A person who by years of study, training and experience has achieved professional recognition and standing in the field of psychiatric nursing and who is licensed by the State Board of Nursing to engage in the practice of professional nursing.

Psychiatric social worker - A person with a graduate degree in social work who by years of study, training and experience in mental health has achieved professional recognition and standing in the field of psychiatric social work.]

Psychiatrist - A physician who has completed [a 3 year] at least 3 years of a residency in psychiatry and is licensed to practice in this Commonwealth.

* * * * *

Quality assurance program - A formal process to assure quality care and maximize program benefits to [patients] individuals receiving services.

~~*Telepsychiatry*~~ *TELE-BEHAVIORAL HEALTH* -

(i) ~~Services provided by a psychiatrist licensed by the Commonwealth using real-time, two-way interactive audio-visual transmission.~~ THE USE OF INTERACTIVE AUDIO AND VIDEO COMMUNICATION TO PROVIDE CLINICAL SERVICES AT A DISTANCE USING TECHNOLOGY THAT CONFORMS TO THE INDUSTRY-WIDE STANDARDS AND IS IN COMPLIANCE WITH STATE AND FEDERAL PRIVACY AND SECURITY LAWS.

(ii) ~~Telepsychiatry~~ TELE-BEHAVIORAL HEALTH ~~services do~~ DOES not include telephone conversation, electronic mail message~~,~~ or facsimile transmission between a psychiatrist OR AN ADVANCED PRACTICE PROFESSIONAL and an individual receiving services, or a consultation between two health care practitioners, although these activities may support ~~telepsychiatry~~ THE DELIVERY OF TELE-BEHAVIORAL HEALTH ~~services~~.

§ 5200.4. Provider eligibility.

[Psychiatric clinic (outpatient) services for the mentally and emotionally disturbed shall be provided only by a facility which complies with this chapter and is certified by the Department to provide such a program. Nothing in this chapter is intended to regulate the practice of psychiatry or psychology in a solo practice or group practice.]

Psychiatric outpatient clinic services for individuals with mental illness or emotional disturbance shall be provided only by a facility which complies with this chapter and is licensed by the Department. Nothing in this chapter is intended to regulate the provision of mental health services in individual or group private practice.

§ 5200.5. Application and review process.

(a) A facility intending to provide psychiatric outpatient clinic services shall file an application for a certificate of compliance with the Department in accordance with Chapter 20 (relating to licensure or approval of facilities and agencies). Facilities shall meet both the requirements of Chapter 20 and this chapter to obtain a certificate. Submission of an application does not constitute a certificate to operate pending Departmental approval. [Facilities shall be inspected a minimum of once per year, but are subject to visits by the Department's designee at other times at the Department's discretion. The Department may request the facility to provide information concerning program and fiscal operation at the Department's discretion.]

(b) [Programs currently operating under preexisting approval shall have 3 months after the effective date of this chapter to meet the requirements of this chapter.] Facilities will be inspected a minimum of once per year, and are subject to visits by the Department's designee at other times at the Department's discretion. The facility shall provide information concerning program and fiscal operation at the Department's request.

§ 5200.6. Objective.

[The objective of the psychiatric clinic treatment services is to increase the level of patient functioning and well-being so that patients will require less intensive services.

The service may be provided to persons with chronic or acute mental disorders who require active treatment.] The objective of the psychiatric outpatient clinic treatment services is to facilitate an individual's recovery to improve functioning, enhance resiliency and well-being, promote independence and maintain optimal functioning in the community consistent with the individual's preferences. The service may be provided to individuals with short-term or long-term treatment needs.

§ 5200.7. Program standards.

This chapter shall be met by a facility seeking licensure or approval. [For-profit facilities shall also have Joint Commission on Accreditation of Hospitals (JCAH) accreditation in order to be licensed or approved under this chapter.]

ORGANIZATION

§ 5200.11. Organization and structure.

[The psychiatric clinic shall be a separate, identifiable organizational unit with its own director, or supervisor, and staffing pattern. When the clinic is a portion of a larger organizational structure, the director or supervisor of the clinic shall be identified and his responsibilities clearly defined. The organizational structure of the unit shall be described in an organizational chart. A written description of programs provided by the unit shall be available to the Department. The Department will be notified of a major change in the organizational structure or services.]

(a) The psychiatric outpatient clinic must be a separate, identifiable organizational unit with its own director, clinical supervisor and staffing pattern. When the psychiatric outpatient clinic is a portion of a larger organizational structure, the director and clinical

supervisor of the psychiatric outpatient clinic shall be identified and their responsibilities clearly defined.

(b) The organizational structure of the unit must be described in an organizational chart.

(c) A written description of programs provided by the unit shall be available to the Department.

(d) The psychiatric outpatient clinic shall notify the Department WITHIN TEN DAYS of a major change in the organizational structure or services.

§ 5200.12. Linkages with mental health service system.

(a) A psychiatric outpatient clinic requires a close relationship with an acute psychiatric inpatient service and a provider of emergency examination and treatment. A written statement describing the accessibility and availability of the services to [patients] individuals is required and shall be maintained on file at the [clinic] psychiatric outpatient clinic and updated as needed.

(b) [A psychiatric clinic shall maintain linkages with other appropriate treatment and rehabilitative services including emergency services, partial hospitalization programs, vocational and social rehabilitation programs, and community residential programs and State psychiatric hospitals. A written statement documenting the linkages shall be maintained on file at the clinic.] A psychiatric outpatient clinic shall maintain linkages with other treatment and rehabilitative services for a full continuum of care, including crisis services, partial hospitalization programs, peer support, psychiatric rehabilitation programs, intensive community services, community residential programs and community psychiatric hospitals. A written statement describing the accessibility and

availability of the services to individuals is required and shall be maintained on file at the psychiatric outpatient clinics and updated as needed to accurately state the services currently available.

(c) When the psychiatric outpatient clinic serves children, linkages with the appropriate educational and social service agencies shall also be maintained. [A written statement documenting the linkages shall be maintained on file at the clinic.] A written statement describing the accessibility and availability of the services to children is required and shall be maintained on file at the psychiatric outpatient clinic and updated as needed to accurately state the services currently available.

(d) A psychiatric outpatient clinic shall participate in the overall system of care as defined in the County [Mental Health/Mental Retardation (MH/MR)] Mental Health/Intellectual Disability (MH/ID) plan. A psychiatric outpatient clinic shall have an agreement regarding continuity of care and information exchange with the County [MH/MR] MH/ID authority. A copy of an agreement [shall] must be included in the application package. Psychiatric outpatient clinics shall document the need for their services in their application for a certificate of compliance.

(e) New psychiatric outpatient clinics or new sites of existing psychiatric outpatient clinics established after the effective date of this chapter shall document the need in the proposed service area for the expansion of outpatient services. County [MH/MR] MH/ID authorities shall review this documentation and make a recommendation to the Department. The Department may deny approval of the expansion where inadequate justification is provided.

STAFFING AND PERSONNEL

§ 5200.21. Qualifications and duties of the [director/clinic] director/clinical supervisor.

[(a) Each mental health outpatient facility shall have a director/clinic supervisor. This person shall be a qualified mental health professional with at least 2 years of supervisory experience or a professional administrator with a graduate degree in administration and 2 years of experience. If the director/clinic supervisor is not a qualified mental health professional, a physician shall be appointed as clinical director in addition to the director.

(b) The director's/supervisor's duties shall include:

(1) Direction, administration and supervision of the clinic.

(2) Development or implementation of the policies and procedures for the operation of the clinic.

(3) Regular meetings of staff to discuss plans, policy, procedures and staff training.

(4) Liaison with other portions of the service system.

(5) Administrative supervision of personnel.

(6) Employment, supervision, and discharge of staff according to established personnel policies.

(7) Supervision of staff training and development.]

(a) Each psychiatric outpatient clinic shall have a director and clinical supervisor, who may be the same individual. A clinical supervisor shall be a ~~qualified~~ mental health professional with at least 2 years of supervisory experience.

(b) The director shall be responsible for the overall operation of the psychiatric outpatient clinic, including daily management, ensuring that clinical supervision is available during all operational hours, developing a quality improvement plan for the psychiatric outpatient clinic and monitoring adherence with this chapter.

(c) The clinical supervisor's responsibilities shall include all of the following:

(1) Supervision of clinical staff.

(2) Development or implementation of the policies and procedures for the operation of the psychiatric outpatient clinic.

(3) Regular meetings of clinical staff to discuss clinical cases, treatment plans, ~~policy~~-POLICIES and procedures.

(4) Liaison with other portions of the service system.

(5) Employment, supervision and discharge of clinical staff according to established personnel policies.

(6) Supervision and documentation of clinical staff training and development.

§ 5200.22. Staffing pattern.

[(a) There shall be qualified staff and supporting personnel in sufficient numbers to provide the services included in the facility's program. At least 50% of the treatment staff shall be mental health professionals. Other treatment staff may be mental health workers as required by the patient load.

(b) Staff shall include at least four full-time equivalent (FTE) mental health professionals.

(c) A psychiatric clinic is required to have at least 16 hours of psychiatric time per week to ensure minimally adequate care and supervision for all patients. Psychiatric

hours shall be expanded when treatment staff exceeds eight FTE. The ratio is two hours/week for each FTE treatment staff member.]

(a) There shall be qualified staff and supporting personnel in sufficient numbers to provide the services included in the psychiatric outpatient clinic's program AS FOLLOWS: ~~At least 50% of the treatment staff shall be mental health professionals.~~

~~(b) An outpatient psychiatric clinic is required to have 2 hours of psychiatric time per week for each FTE treatment staff member. The psychiatrist shall provide 50% of the required psychiatric time. The remaining time may be provided by advanced practice professionals specializing in behavioral health to ensure minimally adequate care or with prior written approval from the Department by the use of telepsychiatry.~~

(1) AT LEAST 50% OF THE TREATMENT STAFF PROVIDING PSYCHOTHERAPY SERVICES SHALL BE MENTAL HEALTH PROFESSIONALS.

(2) A PSYCHIATRIC OUTPATIENT CLINIC IS REQUIRED TO HAVE 2 HOURS OF PSYCHIATRIC TIME PER WEEK FOR EACH FTE MENTAL HEALTH PROFESSIONAL AND MENTAL HEALTH WORKER PROVIDING CLINICAL SERVICES.

(3) THE PSYCHIATRIST MUST PROVIDE 50% OF THE REQUIRED PSYCHIATRIC TIME AT THE PSYCHIATRIC OUTPATIENT CLINIC.

(4) THE REMAINING 50% OF THE PSYCHIATRIC TIME MAY BE PROVIDED BY:

(i) AN ADVANCED PRACTICE PROFESSIONAL.

(ii) A PSYCHIATRIST OFF-SITE BY THE USE OF TELE-BEHAVIORAL HEALTH.

(iii) A COMBINATION OF SUBPARAGRAPHS (i) AND (ii).

[(d)] ~~(c)~~ (B) ~~At a minimum all~~ALL clinical staff shall be supervised by the psychiatrist having the OVERALL responsibility for ~~diagnosis and treatment of the~~ [patient] ~~individual receiving services~~ CLINICAL SERVICES PROVIDED BY THE PSYCHIATRIC OUTPATIENT CLINIC as defined in § ~~5200.31 (relating to treatment planning)~~ 5200.23 (RELATING TO PSYCHIATRIC SUPERVISION).

[(e)] ~~(d)~~ (C) There shall be sufficient clerical staff to keep correspondence, records[,] and files current and in good order.

[(f)] ~~(e)~~ (D) The psychiatric outpatient clinic shall recruit and hire staff that is appropriate for the population to be served.

[(g)] ~~(f)~~ (E) If the psychiatric outpatient clinic serves children, specialized personnel are required, as appropriate, to deliver services to children.

[(h)] ~~(g)~~ (F) Each psychiatric outpatient clinic shall have a written comprehensive personnel policy.

[(i)] ~~(h)~~ (G) There shall be a [planned] written plan for regular, ongoing [program for] staff development and training.

[(j)] ~~(i)~~ (H) Graduate and undergraduate students in accredited training programs in various mental health disciplines may participate in the treatment of [patients] individuals receiving services when under the direct supervision of a mental health professional, but are not to be included for the purpose of defining staffing [pattern] patterns.

[(k)] ~~(i)~~ (I) Psychiatric residents [licensed] with an unrestricted license to practice medicine in this Commonwealth who are under the direct supervision of a psychiatrist are defined as mental health professionals for the purpose of defining staffing patterns.

[(l)] ~~(k)~~ (J) Volunteers may be used in various support and activity functions of the clinic, but are not considered for the purposes of defining staffing patterns.

§ 5200.23. Psychiatric supervision.

~~At a minimum, the psychiatric~~ THE supervision of a psychiatric outpatient clinic shall be by a psychiatrist ~~who must monitor all treatment plans on a regular basis as defined by § 5200.31 (relating to treatment planning)~~ AND, AT A MINIMUM, INCLUDE THE FOLLOWING: ~~Psychiatric supervision shall be expanded as necessary for the [patient] clinic population and services provided.~~

(A) ESTABLISHMENT OF APPROPRIATE STANDARDS FOR TREATMENT AND PRESCRIBING PRACTICES.

(B) INVOLVEMENT IN THE QUALITY MANAGEMENT PROCESS.

(C) PARTICIPATION IN CLINICAL STAFF MEETINGS 2 TIMES PER MONTH. THE PSYCHIATRIC OUTPATIENT CLINIC SHALL MAINTAIN WRITTEN DOCUMENTATION OF CLINICAL STAFF MEETINGS, INCLUDING ATTENDANCE.

(D) CONSULTATION TO ALL CLINICAL STAFF.

§ 5200.24. Criminal history and child abuse certification.

(a) A psychiatric outpatient clinic shall HAVE DOCUMENTATION OF THE ~~complete~~ COMPLETED a criminal history background check for staff, including volunteers that will have direct contact with an individual.

(b) A psychiatric outpatient clinic that serves children shall HAVE DOCUMENTATION OF THE ~~complete~~ COMPLETED criminal history and child abuse certifications, and mandated reporter training in accordance with 23 Pa. C.S. §§ 6301-6386 (relating to the Child Protective Services Law) and Chapter 3490 (relating to protective services) FOR ALL STAFF, INCLUDING VOLUNTEERS THAT WILL HAVE DIRECT CONTACT WITH CHILDREN.

(c) A psychiatric outpatient clinic shall develop and implement written policies and procedures regarding personnel decisions based on the criminal history and child abuse certification, including volunteers.

TREATMENT STANDARDS

§ 5200.31. Treatment planning.

~~(a) A qualified mental health professional or treatment planning team shall prepare an individual comprehensive treatment plan [for every patient] with every individual who participates beyond the intake process which shall be reviewed and approved by a psychiatrist. For [patients] individuals undergoing involuntary treatment, the treatment team shall be headed by a [physician or] psychiatrist or licensed clinical psychologist. [The treatment plan shall include the following:] The treatment plan must meet all of the following requirements:~~

~~(1) Be based on the results of the diagnostic evaluation described in paragraph (7).~~

~~(2) [Be developed within 15 days of intake, and for voluntary patients, be reviewed and updated every 120 days or 15 patient visits—whichever is first—by the mental health professional and the psychiatrist. For involuntary patients review shall be done~~

every 30 days. Written documentation of this review in the case record is required.] Be developed within 30 days of intake when the individual continues participation in the treatment process. For individuals who voluntarily participate in the treatment process, the treatment plan shall be reviewed and signed by the mental health professional, psychiatrist and individual receiving services. Treatment plans shall be updated every 180 days by the mental health professional and the individual receiving services. The psychiatrist shall review and approve the treatment plan within 1 year of the previous psychiatric review as evidenced by the psychiatrist's signature. For an individual under an involuntary outpatient commitment, the review shall be done every 30 days by the psychiatrist. Written documentation of progress for the review period in the medical record is required.

(3) Specify the goals and objectives of the plan, prescribe an integrated program of therapeutic activities and experience, specify the modalities to be utilized and a time of expected duration and the person or persons responsible for carrying out the plan.

(4) Be directed at specific outcomes and connect these outcomes with the modalities and activities proposed.

(5) [Be formulated with the involvement of the patient.] Be developed with the active involvement of the individual receiving services and must include strengths and needs. The treatment plan may also address individual preferences, resilience and functioning.

(6) For children and adolescents, when required by law or regulations, be developed and implemented with the consent of the parents or guardians and include their participation in treatment as required.

~~(7) Specify an individualized [active diagnostic and treatment program for each patient which shall include where]~~ treatment program for each individual which must include ~~clinically appropriate services such as diagnostic and evaluation services, individual, group and family psychotherapy, behavior therapy, crisis intervention services, medication and similar services. For each [patient the]~~ individual receiving services, ~~the psychiatric outpatient clinic shall provide diagnostic evaluation which shall include an assessment of the psychiatric, medical, psychological, social, vocational[,] and educational factors important to the [patient]~~ individual.

~~(b) The treatment plan and updates must be based upon the evaluation and diagnosis. Treatment shall be provided in accordance with the identified goals in the treatment plan and updates.~~

(A) FOR EACH INDIVIDUAL RECEIVING SERVICES, A MENTAL HEALTH PROFESSIONAL OR MENTAL HEALTH WORKER UNDER THE SUPERVISION OF A MENTAL HEALTH PROFESSIONAL SHALL COMPLETE AN ASSESSMENT OF THE BEHAVIORAL HEALTH, MEDICAL, PSYCHOLOGICAL, SOCIAL, VOCATIONAL, EDUCATIONAL AND OTHER FACTORS IMPORTANT TO THE INDIVIDUAL PRIOR TO THE DEVELOPMENT OF THE INITIAL COMPREHENSIVE TREATMENT PLAN.

(B) AN INITIAL COMPREHENSIVE TREATMENT PLAN SHALL BE DEVELOPED, REVIEWED AND APPROVED WITHIN 30 DAYS OF THE INTAKE AND ASSESSMENT WITH EVERY INDIVIDUAL WHO CONTINUES TO PARTICIPATE IN THE TREATMENT PROCESS IN ACCORDANCE WITH THE FOLLOWING:

(1) THE MENTAL HEALTH PROFESSIONAL OR THE MENTAL HEALTH WORKER UNDER THE SUPERVISION OF THE MENTAL HEALTH PROFESSIONAL

AND THE INDIVIDUAL RECEIVING SERVICES SHALL DEVELOP, SIGN AND DATE THE INITIAL TREATMENT PLAN.

(2) IF THE INDIVIDUAL IS RECEIVING PSYCHOTHERAPY AND OTHER CLINICAL SERVICES, THE PSYCHIATRIST OR ADVANCED PRACTICE PROFESSIONAL SHALL REVIEW, APPROVE, SIGN AND DATE THE INITIAL TREATMENT PLAN.

(3) IF THE INDIVIDUAL IS RECEIVING MEDICATION MANAGEMENT SERVICES ONLY, THE PSYCHIATRIST, PHYSICIAN, CERTIFIED REGISTERED NURSE PRACTITIONER OR PHYSICIAN ASSISTANT RESPONSIBLE FOR PRESCRIBING AND MONITORING THE USE OF THE MEDICATION SHALL REVIEW, APPROVE, SIGN AND DATE THE INITIAL TREATMENT PLAN.

(4) FOR INDIVIDUALS UNDER AN INVOLUNTARY OUTPATIENT COMMITMENT, THE MENTAL HEALTH PROFESSIONAL OR ADVANCED PRACTICE PROFESSIONAL PROVIDING SERVICES AND THE INDIVIDUAL SHALL DEVELOP, REVIEW, SIGN AND DATE THE INITIAL TREATMENT PLAN. THE TREATMENT PLAN SHALL BE REVIEWED AND SIGNED BY THE PSYCHIATRIST AS PART OF THE OVERSIGHT OF THE TREATMENT SERVICES PROVIDED.

(C) THE TREATMENT PLAN MUST BE BASED UPON THE ASSESSMENT AND SHALL:

(1) SPECIFY THE GOALS AND OBJECTIVES OF THE PLAN, PRESCRIBE AN INTEGRATED PROGRAM OF THERAPEUTIC ACTIVITIES AND EXPERIENCES, SPECIFY THE MODALITIES TO BE UTILIZED AND THE EXPECTED DURATION OF

SERVICES AND THE PERSON OR PERSONS RESPONSIBLE FOR CARRYING OUT THE PLAN.

(2) BE DIRECTED AT SPECIFIC OUTCOMES AND CONNECT THESE OUTCOMES WITH THE TREATMENT MODALITIES AND ACTIVITIES PROPOSED.

(3) BE DEVELOPED WITH THE ACTIVE INVOLVEMENT OF THE INDIVIDUAL RECEIVING SERVICES AND SHALL INCLUDE STRENGTHS AND NEEDS. THE TREATMENT PLAN MAY ALSO ADDRESS INDIVIDUAL PREFERENCES, RESILIENCE AND FUNCTIONING.

(4) FOR CHILDREN AND ADOLESCENTS UNDER 14 YEARS OF AGE, BE DEVELOPED AND IMPLEMENTED WITH THE CONSENT OF PARENTS OR GUARDIANS AND INCLUDE THEIR PARTICIPATION IN TREATMENT AS REQUIRED BY STATUTE OR REGULATION.

(5) SPECIFY AN INDIVIDUALIZED TREATMENT PROGRAM FOR EACH INDIVIDUAL, WHICH SHALL INCLUDE CLINICALLY APPROPRIATE SERVICES SUCH AS PSYCHIATRIC EVALUATION AND DIAGNOSIS, PSYCHOLOGICAL EVALUATION, INDIVIDUAL, GROUP AND FAMILY PSYCHOTHERAPY, BEHAVIOR THERAPY, CRISIS INTERVENTION SERVICES, MEDICATION EVALUATION AND MANAGEMENT, AND SIMILAR SERVICES.

(D) THE TREATMENT PLAN SHALL BE REVIEWED AND UPDATED THROUGHOUT THE DURATION OF TREATMENT AS FOLLOWS:

(1) FOR INDIVIDUALS UNDER AN INVOLUNTARY OUTPATIENT COMMITMENT, THE TREATMENT PLAN SHALL BE REVIEWED AND UPDATED EVERY 30 DAYS BY THE MENTAL HEALTH PROFESSIONAL OR ADVANCED

PRACTICE PROFESSIONAL PROVIDING TREATMENT SERVICES AND THE INDIVIDUAL RECEIVING SERVICES. THE TREATMENT PLAN UPDATE SHALL BE REVIEWED AND SIGNED BY THE PSYCHIATRIST AS PART OF THE OVERSIGHT OF TREATMENT SERVICES PROVIDED.

(2) FOR INDIVIDUALS VOLUNTARILY RECEIVING TREATMENT, THE TREATMENT PLAN SHALL BE REVIEWED AND UPDATED AT A MINIMUM EVERY 180 DAYS BY THE MENTAL HEALTH PROFESSIONAL, MENTAL HEALTH WORKER UNDER THE SUPERVISION OF A MENTAL HEALTH PROFESSIONAL, CERTIFIED REGISTERED NURSE PRACTITIONER OR PHYSICIAN ASSISTANT PROVIDING TREATMENT SERVICES AND THE INDIVIDUAL RECEIVING SERVICES.

(3) THE TREATMENT PLAN UPDATE SHALL BE SIGNED AND DATED BY THE MENTAL HEALTH PROFESSIONAL, MENTAL HEALTH WORKER UNDER THE SUPERVISION OF A MENTAL HEALTH PROFESSIONAL, CERTIFIED REGISTERED NURSE PRACTITIONER OR PHYSICAN ASSISTANT PROVIDING TREATMENT SERVICES.

(4) THE MENTAL HEALTH PROFESSIONAL OR MENTAL HEALTH WORKER SHALL REQUEST THE INDIVIDUAL TO SIGN AND DATE THE TREATMENT PLAN UPDATE. IN THE EVENT THE INDIVIDUAL DOES NOT SIGN THE TREATMENT PLAN UPDATE, THE MENTAL HEALTH PROFESSIONAL OR MENTAL HEALTH WORKER SHALL DOCUMENT THE REQUEST IN THE RECORD.

(E) ALL TREATMENT SERVICES SHALL BE PROVIDED IN ACCORDANCE WITH THE IDENTIFIED GOALS IN THE TREATMENT PLAN AND UPDATES.

(F) THE TREATMENT PLAN AND UPDATES SHALL BE KEPT IN THE INDIVIDUAL RECORD.

(G) THE TREATMENT PLAN SHALL BE REVIEWED ON AN ANNUAL BASIS BY THE PSYCHIATRIST OR ADVANCED PRACTICE PROFESSIONAL THROUGHOUT THE COURSE OF TREATMENT FROM THE PSYCHIATRIC OUTPATIENT CLINIC AND DOCUMENTED IN THE INDIVIDUAL RECORD.

§ 5200.32. Treatment policies and procedures.

Each [facility] psychiatric outpatient clinic shall have on file a written plan specifying the clinical policy and procedures of the facility AND SHALL PROVIDE SERVICES IN ACCORDANCE WITH THEM. This plan [shall] must provide for the following:

(1) Intake AND ASSESSMENT policy and procedures.

(2) Admission ~~and discharge~~ policies INCLUDING TIME FRAMES FOR THE FOLLOWING:

(I) REFERRALS FROM CRISIS INTERVENTION OR EMERGENCY SERVICES.

(II) REFERRALS FROM INPATIENT UNITS.

(III) REFERRALS FOR MEDICATION MANAGEMENT SERVICES.

(IV) OTHER REFERRALS.

(3) The services to be provided and the scope of these services.

(4) DISCHARGE policies providing for continuity of care for [patients] individuals discharged from the program.

(5) COMPLAINT POLICIES AND PROCEDURES.

(6) STATEMENT OF RIGHTS IN ACCORDANCE WITH §§ 5100.51—5100.56 (RELATING TO PATIENT RIGHTS).

§ 5200.33. DISCHARGE.

(A) A PSYCHIATRIC OUTPATIENT CLINIC SHALL COMPLETE A DISCHARGE SUMMARY FOR EACH INDIVIDUAL AT LEAST 45 DAYS BEFORE DISCHARGE FROM SERVICES THAT INCLUDES THE FOLLOWING:

(1) SUMMARY OF SERVICES PROVIDED AND OUTCOMES.

(2) REASON FOR DISCHARGE.

(3) REFERRAL OR RECOMMENDATION FOR OTHER SERVICES IF NEEDED.

(B) THE PSYCHIATRIC OUTPATIENT CLINIC SHALL PROVIDE THE FOLLOWING INFORMATION TO INDIVIDUALS AT DISCHARGE:

(1) CONTACT INFORMATION FOR THE LOCAL CRISIS INTERVENTION SERVICE.

(2) CONTACT INFORMATION FOR ANY REFERRALS.

MISCELLANEOUS PROVISIONS

§ 5200.41. Records.

(a) Under section 602 of the Mental Health and [Mental Retardation] Intellectual Disability Act of 1966 (50 P.S. § 4602), and in accordance with recognized and acceptable principles of [patient record keeping] ~~medical~~ recordkeeping, the facility shall maintain a record for each [person admitted to a psychiatric clinic] individual receiving services from a psychiatric outpatient clinic. The record [shall] must include the following:

(1) [Patient identifying] Identifying information.

* * * * *

(3) ASSESSMENT INCLUDING presenting problems.

* * * * *

(5) Medical, social[,] and developmental history.

(6) Diagnosis and evaluation.

(7) Treatment plan and updates.

* * * * *

(12) A written ~~order~~ RECOMMENDATION FROM A LPHA ACTING WITHIN THE PRACTITIONER'S SCOPE OF PRACTICE for any MMHT SERVICES provided.

(b) Records shall also be maintained as follows:

* * * * *

(2) [Reviewed periodically as to quality by the facility or clinical director as appropriate.] Reviewed ~~bi-annually~~ TWICE A YEAR as to quality by the director, ~~or~~ clinical supervisor OR PSYCHIATRIST ~~as appropriate~~.

* * * * *

[(c) The records must comply with § § 5100.31-5100.39 (relating to confidentiality of mental health records).

(d) All case records shall be kept in locked and protected locations to which only authorized personnel shall be permitted access.]

(c) All protected ~~medical and mental health~~ INDIVIDUAL records, written and electronic, shall be secured in accordance with all applicable Federal and State privacy and confidentiality statutes and regulations.

§ 5200.42. [Drugs and medications] Medications.

(a) If medication is prescribed or dispensed by the [facility] psychiatric outpatient clinic, the requirements of all applicable Federal and State drug statutes and regulations shall be met. In addition, all of the following apply:

(1) Prescriptions shall be written only by a licensed ~~practitioner~~ PSYCHIATRIST, PHYSICIAN, CERTIFIED REGISTERED NURSE PRACTITIONER OR PHYSICIAN ASSISTANT within THE PRACTITIONER'S scope of practice.

(2) The term "written" includes prescriptions that are handwritten or recorded and transmitted by electronic means.

(3) Written prescriptions transmitted by electronic means must be electronically encrypted or transmitted by other technological means designed to protect and prevent access, alteration, manipulation or use by an unauthorized person.

(4) A record of any medication prescribed shall be documented in the individual ~~medical~~ record.

(b) Written policies and procedures providing for the safe dispensing and administration of [drugs] medication by the medical and nursing staff shall be in writing and on file. [Such policy shall include all of the following:] The policy must include all of the following:

[(1) Prescriptions shall be written only by the physician.

(2) Drugs shall be dispensed only on order of a physician.

(3) All drugs shall be kept in a secure place.

(4) Each dose of medication administered by the facility shall be properly recorded in the patient's medical record.]

(1) Medications shall be dispensed only on an order of a licensed ~~practitioner~~ PSYCHIATRIST, PHYSICIAN, CERTIFIED REGISTERED NURSE PRACTITIONER OR PHYSICIAN ASSISTANT within THE PRACTITIONER'S scope of practice.

(2) All medication shall be kept in a secure place.

(3) Each dose of medication administered by the psychiatric outpatient clinic shall be properly recorded in the individual's ~~medical~~ record.

§ 5200.43. Fee schedule.

Each ~~outpatient~~ psychiatric OUTPATIENT clinic shall maintain a schedule of uniform basic charges for services which are available to all [patients] individuals receiving services. [Fee schedules shall be submitted to the Department for information purposes.]

§ 5200.44. Quality assurance program.

All psychiatric outpatient clinics shall have a utilization review and clinical audit process designed to ensure that the most appropriate treatment is delivered to the [patient] individual receiving services and that treatment is indicated. [Patients shall be discharged when the identified benefit, as reflected in the initial evaluation, goals, objectives, and treatment plan, has been received.] Psychiatric outpatient clinics that provide MMHT SERVICES shall include MMHT services in the Quality Assurance plan. THE QUALITY ASSURANCE PLAN SHALL INCLUDE THE FOLLOWING:

(1) PROCESS FOR THE ANNUAL REVIEW OF THE QUALITY, TIMELINESS AND APPROPRIATENESS OF THE SERVICES PROVIDED, INCLUDING FEEDBACK ON SATISFACTION WITH SERVICES FROM INDIVIDUALS RECEIVING SERVICES.

(2) IDENTIFICATION OF THE TYPE OF REVIEW AND THE METHODOLOGY FOR THE REVIEW.

(3) DOCUMENTATION OF THE FINDINGS OF THE ANNUAL REVIEW.

(4) UTILIZATION OF THE ANNUAL REVIEW FINDINGS TO IMPROVE PSYCHIATRIC OUTPATIENT CLINIC SERVICES.

§ 5200.45. Physical facility.

(a) Adequate space, equipment and supplies shall be provided in order that the outpatient services can be provided effectively and efficiently. Functional surroundings shall be readily accessible to the [patient] individual and community served.

(b) All space and equipment shall be well maintained and [shall] must meet applicable Federal, State[,] and local requirements for safety, fire, accessibility and health.

(c) A waiting room which is [neat, cheerful, and comfortably furnished] clean, comfortable and sensitive to the culture of the population served shall be provided.

(d) There shall be office space for the clinical staff suitably equipped with chairs, desks, tables[,] and other necessary equipment.

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(f) There shall be adequate provisions for [the privacy of the patient in interview rooms] privacy within the psychiatric outpatient clinic.

(g) A psychiatric outpatient clinic is defined by its staff and organizational structure rather than by a specific building or facility. It may operate at more than one site if the respective sites meet all physical facility standards and the sites operate as a portion of the psychiatric outpatient clinic. The staffing pattern at each site shall be based on the

ratio of total [clinic patients seen at that site to the total patients seen in the psychiatric clinic as a whole] individuals served at that site to the total individuals served in the psychiatric outpatient clinic as a whole. The Department will issue a single certificate of compliance to the parent organization which will list all operational sites.

§ 5200.46. Notice of nondiscrimination.

[Programs shall not discriminate against staff or clients on the basis of age, race, sex, religion, ethnic origin, economic status, or sexual preference, and must observe all applicable State and Federal statutes and regulations.] Programs may not discriminate against staff or individuals receiving services on the basis of race, color, creed, disability, religious affiliation, ancestry, gender, gender identity or expression, sexual orientation, national origin or age, and shall ~~observe~~ COMPLY WITH all applicable State and Federal statutes and regulations.

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§ 5200.48. Waiver of standards.

In instances where the development of specialty psychiatric outpatient clinic services is severely limited by these standards, such as[,] rural clinics[,] or specialty clinics, a waiver may be granted [for staffing standards for a period of 6 months and may be renewed up to 3 times]. [Such waivers] Waivers may be applied only in areas where the need for [such] these services and the attempts to meet the standards are adequately documented. [Such waivers] Waivers are to be considered only in exceptional circumstances and are subject to approval by the [office of Mental Health] Department.

MOBILE MENTAL HEALTH TREATMENT

§ 5200.51. Provider service description.

(a) Prior to the delivery of MMHT services, a psychiatric outpatient clinic shall submit to the Department for approval a MMHT service description that includes the information required under subsection (b). A psychiatric outpatient clinic shall submit a revised service description to the Department if there are changes to the information required under subsection (b).

(b) A service description must include all of the following:

(1) The population to be served, including all of the following:

(i) Expected number of individuals to be served.

(ii) The age ranges of the individuals to be served.

(iii) The presenting problems and other characteristics supporting the need for MMHT SERVICES.

(iv) The location of the provision of the services, whether in the home or community or both.

(v) The goals, objectives and expected outcomes of the MMHT services.

(2) Staffing pattern, including all of the following:

(i) Number of mental health professionals, licensed clinical psychologists, and psychiatrists providing MMHT SERVICES.

(ii) The qualifications of a staff person providing a MMHT service.

(iii) The specific clinical services to be provided by each staff.

(3) The policies and procedures for all of the following:

(i) The supervision of MMHT services.

(ii) Staff support in the provision of MMHT SERVICES.

(iii) Coordination of care with physical health services.

(c)A psychiatric outpatient clinic shall provide MMHT SERVICES only as set forth in its approved service description.

§ 5200.52. Treatment planning.

(a) Treatment planning shall be completed in accordance with § 5200.31 (relating to treatment planning) and shall include all of the following:

(1) Services to be provided.

(2) Treatment goals.

(3) Duration of service.

(4) Supports and interventions necessary to alleviate barriers to receiving services at a psychiatric outpatient clinic.

(5) Identification of the professional providing each service.

(6) Location of service provision.

(b) A MMHT SERVICES provider shall complete an assessment as required by § 5200.31(a)~~(7)~~ prior to developing the treatment plan. In addition, the following shall apply:

(1) The assessment shall include documentation of the disabling effects of a mental or physical illness that impedes or precludes the individual's ability to participate in services at the psychiatric outpatient clinic.

(2) The assessment shall be completed by a psychiatrist, mental health professional, or an advanced practice professional trained and qualified to provide services at a psychiatric outpatient clinic ~~under the supervision of a psychiatrist.~~

(c) Treatment plans shall be updated AT A MINIMUM every 180 days ~~at a minimum.~~

~~**§ 5200.53. Discharge.**~~

~~(a) Discharge planning shall be discussed with the individual receiving MMHT services.~~

~~(b) Upon discharge, the psychiatric outpatient clinic providing MMHT shall complete a discharge summary that must include the following:~~

~~(1) MMHT services provided.~~

~~(2) Outcomes of MMHT service.~~

~~(3) Reason for discharge.~~

~~(4) Referral or recommendation for other services.~~

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE REGULATORY REVIEW ACT

I.D. NUMBER: 14-538

SUBJECT: **Outpatient Psychiatric Services and Psychiatric Outpatient Clinics**

AGENCY: DEPARTMENT OF HUMAN SERVICES
Office of Mental Health and Substance Abuse Services

TYPE OF REGULATION

Proposed Regulation

X Final Regulation

Final Regulation with Notice of Proposed Rulemaking Omitted

120-day Emergency Certification of the Attorney General

120-day Emergency Certification of the Governor

Re-Delivery of Disapproved Regulation
a. With Revisions b. Without Revisions

RECEIVED
IRRC
2019 JUN -4 P 3:18

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
		HOUSE COMMITTEE ON HUMAN SERVICES
6/4/19		MAJORITY CHAIR Gene DiGirolamo
6-4-19		MINORITY CHAIR Angel Cruz
		SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES
6/4/19		MAJORITY CHAIR Michele Brooks
6/4/19		MINORITY CHAIR Art Haywood
6/4/19		*INDEPENDENT REGULATORY REVIEW COMMISSION*
		ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)

May 20, 2019