RULE

Department of Health
Bureau of Health Services Financing

Applied Behavior Analysis-Based Therapy Services
Place of Service Limitations
(LAC 50:XV.301)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:XV.301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 1. Applied Behavior Analysis-Based Therapy Services

Chapter 3. Services

§301. Covered Services and Limitations

A. – D. ...

E. Service Limitations

1. ...

2. Services must be delivered in a natural setting (e.g., home and community-based settings, including schools and clinics).

a. Services delivered in a school must not duplicate services rendered under an individualized family service plan (IFSP) or an individualized educational program (IEP) as required under the federal Individuals with Disabilities Education Act (IDEA).

3. ...

F. Not Medically Necessary/Non-Covered Services. The following services do not meet medical necessity criteria, nor qualify as Medicaid covered ABA-based therapy services:

1. – 3. ...

4. treatment whose purpose is vocationally- or recreationally-based; and

5. - 5.a.ii. ...

iii. could be provided by persons without professional skills or training.

6. – 6.d. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:926 (May 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2498 (December 2017), LR 48:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health

and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Dr. Courtney N. Phillips

Secretary

RULE

Department of Health
Bureau of Health Services Financing

Behavioral Health Service Providers
Licensing Standards
(LAC 48:I.Chapters 56 and 57)

The Department of Health, Bureau of Health Services Financing has amended LAC 48:I.Chapters 56 and 57 and adopted §5733 as authorized by R.S. 36:254. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 48

PUBLIC HEALTH-GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification

Chapter 56. Behavioral Health Service Providers

Subchapter A. General Provisions

§5603. Definitions

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Community Psychiatric Support and Treatment (CPST)—Centers for Medicare and Medicaid Services (CMS) approved Medicaid mental health rehabilitation services designed to reduce disability from mental illness, restore functional skills of daily living, build natural supports, and achieve identified person-centered goals or objectives through counseling, clinical

psycho-education, and ongoing monitoring needs as set forth in an individualized treatment plan.

***

Geographic Service Area—the geographic service location for a public or private behavioral health services provider licensed pursuant to this Part shall be defined to include all of the following:

1. – 2. ...

3. any location within a 50 mile radius of the provider’s business office.

***

Off-Site—a parent facility’s alternate location or premises that provides behavioral health services on a routine basis within the geographic service area of the licensed BHS provider that:

1. ...

2. is owned by, leased by or donated or loaned to the parent provider for the purpose of providing behavioral health services; and

a. – c. Repealed.

3. has a sub-license issued under the parent facility’s license.

4. Repealed.

***

Onsite Access—for purposes of §5712 and §5733 of this Rule, the delivery of the treatment to the patient at the location of the substance use disorder facility. For purposes of §5712 and §5733, onsite access shall not mean that the substance use disorder facility is required to maintain stock of the medication-assisted treatment at the facility.

***

Peer Support Specialist—an individual with personal lived experience with a minimum of 12 consecutive months of recovery from behavioral health conditions and successfully navigating the behavioral health services system. Recognized peer support specialists must successfully complete an OBH-approved peer training program, continuing education requirements, and clinical supervision in order to provide peer support services.

***

Psychosocial Rehabilitation (PSR) Services—CMS approved Medicaid mental health rehabilitation services designed to assist the individual with compensating for or eliminating functional deficits and interpersonal or environmental barriers associated with mental illness through skill building and supportive interventions to restore and rehabilitate social and interpersonal skills and daily living skills.

***

Substance Use Disorder Facilities/Addiction Treatment

Service—a service related to the screening, diagnosis, management, or treatment for the use of or addiction to controlled dangerous substances, drugs or inhalants, alcohol, problem gambling or a combination thereof; may also be referred to as substance use disorder service.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1682 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1380 (July 2017), LR 46:587 (April 2020), LR 48:1277 (May 2022), LR 48:

Subchapter B. Licensing

§5605. General Provisions

A. – F.3. ...

G. Off-Sites. A licensed BHS provider may have an off-site location with the approval of HSS that meets the following requirements.

1. The off-site may share a name with the parent facility if a geographic indicator (e.g., street, city or parish) is added to the end of the off-site name.

2. – 4. ...

5. The licensed BHS provider may operate within a 50

mile radius of one designated off-site location.

6. A residential off-site shall be reviewed under the plan review process.

7. An initial survey may be required prior to opening a residential off-site.

8. An off-site shall have staff to comply with all requirements in this Chapter and who are present during established operating hours to meet the needs of the clients.

9. Personnel records and client records may be housed at the parent facility.

10. Clients who do not receive all treatment services at an off-site may receive the services at the parent facility or be referred to another licensed provider that provides those services.

11. The off-site may offer fewer services than the parent facility and/or may have less staff than the parent facility.

12. The off-site together with the parent facility provides all core functions of a BHS provider and meets all licensing requirements of a BHS provider.

H. – L.9. ...

M. Geographic Service Area

1. – 2.d.i. ...

ii. for providers of outpatient services

(other than providers with a mental health service program that provide services only in the home and community – see below) the geographic service area shall be:

(a). – (c). ...

(d). in a home or community location in any parish contiguous to the parish in which the BHS provider's primary business office is located;

(e). in a home or community location that is within a 50 mile radius of the BHS provider's primary business office; and

(f). in a home or community location that is within a 50 mile radius of one designated off-site location.

iii. – iii.(c). ...

3. A BHS provider that is not a licensed mental health professional or a provisionally licensed mental health professional acting within his/her scope of practice may not provide telehealth services outside of its geographic service area.

4. A licensed mental health professional or a provisionally licensed mental health professional acting within his/her scope of practice, who is employed by a behavioral health service provider licensed pursuant to this Part, may provide professional outpatient psychiatric services to any

established client or patient, regardless of the client's or patient's particular location within the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2162.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1687 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1380 (July 2017), LR 46:588 (April 2020), LR 48:1281 (May 2022), LR 48:

§5606. License Restrictions and Exceptions

A. – B.5. ...

C. The provider shall not provide services to a client residing outside of the provider's designated geographic service area unless the provider has received a written waiver request approval from HSS or meets the requirements of Subsection B of this Section.

D.– F.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2162.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 46:588 (April 2020), amended LR 48:1281 (May 2022), LR 48:

Subchapter E. Personnel

§5641. General Requirements

A. – D.1.b. ...

2. For any provider that is treating adults, prior to any employer making an offer to employ or contract with a nonlicensed person or any licensed person, the provider shall obtain a statewide criminal background check in accordance with R.S. 40:1203.1 et seq. At the latest, the background check shall be conducted within 90 days prior to hire or employment.

D.3. – F. ...

1. The provider is prohibited from knowingly employing or contracting with, or retaining the employment of or contract with, a member of the direct care staff who:

a. has entered a plea of guilty or nolo contendere, no contest, or has been convicted of a felony listed in R.S. 40:1203.3, unless the individual meets one of the exceptions allowed by the statute; or

i. – v. Repealed.

F.1.b. – J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1699 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

§5643. Core Staffing Personnel Qualifications and

Responsibilities

A. – C.1.b.vi. ...

2. CPST Professionals

a. The provider shall maintain a sufficient number of CPST professionals to meet the needs of its clients;

b. CPST professionals shall:

i. provide direct care to clients and may serve as primary clinician to specified caseload under clinical supervision;

ii. – iv. ...

v. prepare and write notes or other documents related to recovery (e.g., assessment, progress notes, treatment plans, etc.).

3. Unlicensed Professionals

a. The provider shall maintain a sufficient number of UPs to meet the needs of its clients;

b. The UP shall:

i. provide direct care to clients and may serve as primary case worker to specified caseload under clinical supervision;

ii. serve as resource person for other professionals and paraprofessionals in their specific area of expertise;

iii. attend and participate in individual

care conferences, treatment planning activities and discharge planning;

iv. function as the client’s advocate in all treatment decisions affecting the client; and

v. prepare and write notes or other documents related to recovery (e.g., assessment, progress notes, treatment plans, etc.).

c – d.x. Repealed.

4. Direct Care Aides

a. A residential provider shall have a sufficient number of direct care aides to meet the needs of the clients;

i. – viii. Repealed.

b. A provider that provides outpatient services shall use direct care aides as needed;

i. –v. Repealed.

c. Direct care aides shall meet the following minimum qualifications:

i. have obtained a high school diploma or equivalent; and

ii. be at least 18 years old in an adult provider and 21 years old in a provider that treats children and/or adolescents.

iii. Repealed.

d. Direct care aides shall have the following responsibilities:

i. ensure a safe environment for clients;

ii. exercise therapeutic communication skills;

iii. take steps to de-escalate distressed clients;

iv. observe and document client behavior;

v. assist with therapeutic and recreational activities;

vi. monitor clients' physical well-being;

vii. provide input regarding client progress to the interdisciplinary team;

viii. oversee the activities of the facility when there is no professional staff on duty;

ix. possess adequate orientation and skills to assess situations related to relapse and to provide access to appropriate medical care when needed; and

x. function as client advocate.

5. Volunteers

a. If a BHS provider utilizes volunteers, provider shall ensure that each volunteer is:

i. supervised to protect clients and staff;

ii. oriented to the provider, job duties, and other pertinent information;

iii. trained to meet the requirements of duties assigned;

iv. given a written job description or written agreement;

v. identified as a volunteer;

vi. trained in privacy measures;

vii. required to sign a written confidentiality agreement; and

viii. required to submit to a statewide criminal background check by an agency authorized by the Office of the State Police to conduct criminal background checks prior to providing direct care.

b. If a BHS provider utilizes student volunteers, it shall ensure that each student volunteer:

i. has current registration with the applicable Louisiana professional board, when required, and is in good standing at all times that is verified by the provider;

ii. is actively pursuing a degree in a human service field or professional level licensure or certification at all times;

iii. provides direct client care utilizing the standards developed by the professional board;

iv. provides care only under the direct supervision of the appropriate supervisor; and

v. provides only those services for which the student has been trained and deemed competent to perform.

c. A volunteer’s duties may include:

i. direct care activities only when qualified provider personnel are present;

ii. errands, recreational activities; and

iii. individual assistance to support services.

d. The provider shall designate a volunteer coordinator who:

i. has the experience and training to supervise the volunteers and their activities; and

ii. is responsible for selecting, evaluating and supervising the volunteers and their activities.

6. Care Coordinator

a. The provider shall ensure that each care coordinator:

i. has a high school diploma or equivalent;

ii. is at least 18 years old in an adult provider and 21 years old in provider that treats children and/or adolescents; and

iii. has been trained to perform assigned job duties.

D. Multiple Positions. If a BHS provider employs a staff member in more than one position, the provider shall ensure that:

1. the person is qualified to function in both capacities; and

2. one person is able to perform the responsibilities of both jobs.

E. – E.2. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1700 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1383 (July 2017), LR 48:1283 (May 2022), LR 48:

Subchapter L. Additional Requirements for Mental Health Programs

§5689. Community Psychiatric Support and Treatment

A. The provider that provides community psychiatric support and treatment (CPST) services shall:

1. – 3. ...

4. provide counseling, solution-focused

interventions, emotional and behavioral management and problem behavior analysis with the client; and

5. participate in and utilize strengths-based planning and treatments, that includes identifying strengths and needs, resources, natural supports and developing goals and objectives to address functional deficits associated with the client’s mental illness.

6. Repealed.

B. Staffing Requirements

1. Professionals Providing CPST Services

a. The program’s professionals that provide CPST shall be one of the following:

i. licensed mental health professional (LMHP);

ii. provisionally licensed professional counselor (PLPC);

iii. provisionally licensed marriage and family therapist (PLMFT);

iv. licensed master social worker (LMSW);

v. certified social worker (CSW); or

vi. psychology intern from an American Psychological Association approved internship program.

b. The responsibilities of any professionals providing CPST services include:

i. assisting the client with effectively responding to or avoiding identified precursors or triggers that would risk the client remaining in a natural community location; and

ii. assisting the client and family members to identify strategies or treatment options associated with the client's mental illness.

c. – c.iii. Repealed.

2. Licensed Mental Health Professionals

a. – b. ...

c. The LMHP is responsible for rendering the assessment and treatment planning components of CPST.

3. – 3.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1713 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

Subchapter O. Additional Requirements for Opioid Treatment Programs

§5733. Treatment to Pregnant Women

A. Each substance use disorder facility licensed as an OTP provider that provides treatment for opioid use

disorder to pregnant women shall provide onsite access to at least one form of FDA-approved opioid agonist treatment.

1. An OTP shall not be found to be in violation of this Section if prior authorization from a patient's health insurer, including the Medicaid program, is required and the preapproval request is denied by the patient's health insurer.

B. Each OTP that provides treatment for opioid use disorder to pregnant women shall submit to the department, on its initial licensing application or its annual licensing renewal application, an attestation as to whether it is complying with the requirements of Subsection A of this Section. The requirement for submission of the attestation shall commence on January 1, 2023.

1. If the OTP is not fully complying with the requirements of Subsection A of this Section, then the attestation that the OTP submits shall include a report addressing its progress toward satisfying those requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:

Dr. Courtney N. Phillips

Secretary

RULE

Department of Health
Bureau of Health Services Financing

Inpatient Hospital Services
Urban Metropolitan Statistical Area Facility
(LAC 50:V.Chapter 19)

The Department of Health, Bureau of Health Services Financing has adopted LAC 50:V.Chapter 19 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50
PUBLIC HEALTH-MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 1. Inpatient Hospital Services

Chapter 19. Urban Metropolitan Statistical Area (MSA) Facility

§1901. Qualifying Criteria

A. In order to qualify as an urban metropolitan statistical area (MSA) facility, the hospital:

1. has a facility type code of acute and opened subsequent to the March 12, 2020 presidential declaration of a national emergency due to COVID-19 to provide availability of additional beds and services for COVID-19 patients;

2. must have been licensed and certified no later than June 30, 2020, and located in zip code 70806, east of I-110, north of I-10, and south of Business Highway 190;

3. is located in an urban metropolitan statistical area (MSA) as defined by the United States Office of Management and Budget;

4. has an operational emergency room and is located greater than five miles in distance from the closest hospital emergency room; and

5. is located on a single site.

a. The addition of any off-site campus location to the license of this hospital will invalidate the provisions of this reimbursement methodology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:

§1903. Reimbursement Methodology

A. Effective July 1, 2022, the inpatient hospital per diem rate paid to an urban MSA facility for acute care services shall be increased by indexing annually to 95 percent of the small rural hospital acute per diem rate in effect.

B. Effective July 1, 2022, the inpatient hospital per diem rate paid to an urban MSA facility for psychiatric services

shall be increased by indexing annually to 95 percent of the small rural hospital psychiatric per diem rate in effect.

C. These rates are conditional on the hospital continuing to meet all qualifying criteria included in §1901. If the hospital no longer qualifies, payments will revert back to appropriate non-rural, non-state hospital assigned rates effective on the date that the qualification(s) in §1901 are no longer met.

D. The department may review all above provisions every three years, at a minimum, to evaluate continuation of these enhanced reimbursements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:

Dr. Courtney N. Phillips

Secretary

RULE

Department of Health
Bureau of Health Services Financing

Outpatient Hospital Services
Urban Metropolitan Statistical Area Facility
(LAC 50:V.Chapter 73)

The Department of Health, Bureau of Health Services Financing has adopted LAC 50:V.Chapter 73 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 5. Outpatient Hospital Services

Chapter 73. Urban Metropolitan Statistical Area (MSA) Facility

§7301. Qualifying Criteria

A. In order to qualify as an urban metropolitan statistical area (MSA) facility, the hospital:

1. has a facility type code of acute and opened subsequent to the March 12, 2020 presidential declaration of a national emergency due to COVID-19 to provide availability of additional beds and services for COVID-19 patients;

2. must have been licensed and certified no later than June 30, 2020, and located in zip code 70806, east of I-110, north of I-10, and south of Business Highway 190;

3. is located in an urban metropolitan statistical area (MSA) as defined by the United States Office of Management and Budget;

4. has an operational emergency room and is located greater than five miles in distance from the closest hospital emergency room; and

5. is located on a single site.

a. The addition of any off-site campus location to the license of this hospital will invalidate the provisions of this reimbursement methodology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:

§7303. Reimbursement Methodology

A. Effective for dates of service on or after July 1, 2022, payments for outpatient services to qualifying urban MSA hospitals who meet all of the criteria in §7301 shall be made as follows.

1. Outpatient Surgery. The reimbursement amount for outpatient hospital surgery services shall be an interim payment

equal to the Medicaid fee schedule amount on file for each service, and a final reimbursement amount of 95 percent of allowable Medicaid cost as calculated through the cost report settlement process.

2. Clinic Services. The reimbursement amount for outpatient clinic services shall be an interim payment equal to the Medicaid fee schedule amount on file for each service, and a final reimbursement amount of 95 percent of allowable Medicaid cost as calculated through the cost report settlement process.

3. Laboratory Services. The reimbursement amount for outpatient clinical diagnostic laboratory services shall be the Medicaid fee schedule amount on file for each service.

4. Rehabilitation Services. The reimbursement amount for outpatient rehabilitation services shall be an interim payment equal to the Medicaid fee schedule amount on file for each service, and a final reimbursement amount of 95 percent of allowable Medicaid cost as calculated through the cost report settlement process.

5. Other Outpatient Hospital Services. The reimbursement amount for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services, and outpatient hospital facility fees shall be an interim payment equal to 95 percent of allowable

Medicaid cost as calculated through the cost report settlement process.

B. The department may review all above provisions every three years, at a minimum, to evaluate continuation of these enhanced reimbursements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:

Dr. Courtney N. Phillips

Secretary