State of New Hampshire
Department of Health and Human Services

A joint presentation of:
DHHS, Bureau of Drug and Alcohol Services,
DHHS, Bureau of Program Integrity

and

Medicaid Managed Care Organizations
WellSense
AmeriHealth Caritas
New Hampshire Healthy Families

November 2022

Presentation Guidelines

This presentation will be recorded and the slide deck and recording will be made available to attendees as well as posting on the DHHS website

All attendees should mute their microphones.

During each section, if there are any questions during the presentation please record in chat function or raise your hand feature can be used. You also can be directed by the moderator to remove your mute microphone to ask your question directly.

STATE OTP PROVIDER REQUIREMENTS ADMINISTRATIVE RULE

Federal:
42 CFR PART 8 - MEDICATION ASSISTED TREATMENT FOR OPIOID USE DISORDERS

New Hampshire Code of Administrative Rules:
PART He-A 304 CERTIFICATION AND OPERATIONAL REQUIREMENTS FOR OPIOID TREATMENT PROGRAMS

PART He-W 513 SUBSTANCE USE DISORDER (SUD) TREATMENT AND RECOVERY SUPPORT SERVICES

November 2022

AGENDA

I. Regulatory Oversight and Quality Expectations

Presented By DHHS, Bureau of Drug and Alcohol Services

II. ASAM Requirements, Screening, Evaluations, Treatment, and Discharge/Transfer Quality Expectations

Presented By WellSense

III. Medical Director Expectations, Medical Exams, Transfer Documentation, Take-Home Dosing, Drug Testing, Counseling, and Pregnancy

Presented By AmeriHealth Caritas

AGENDA continued

IV. Staff Qualifications, Supervision Requirements, Licensing and Screening Requirements, and Quality Management

Presented By New Hampshire Healthy Families

V. Documentation Requirements for Medical Records

Presented By DHHS, Bureau of Program Integrity

VI. Third Party Liability Billing Requirements

Presented By DHHS, Bureau of Program Integrity

VII. Waiver Requests

Presented By DHHS, Bureau of Drug and Alcohol Services

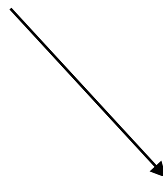
Section I

Regulatory Oversight and Quality Expectations

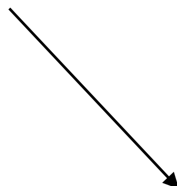
Presented by
DHHS, Bureau of Drug and Alcohol Services

REGULATORY OVERSIGHT

Federal Regulation Title 42 (CFR 8)



State Opioid Treatment Authority (SOTA)



He-A 304 Certification
and Operational Requirements for OTPs

QUALITY EXPECTATIONS

He-A 304

- Comply with all federal, state, and local laws, rules, codes, ordinances, licenses, permits, and approvals, and rules (He-A 304.12 (a))
- Monitor, assess, and improve, as necessary, the quality of care and services provided to clients on an ongoing basis (He-A 304.12 (c))
- Administrative Remedies for violations of He-A 304
  - Submit a Plan of Correction
  - Impose a Plan of Correction
    - Denial or revocation of certification

CLIENT ELIGIBILITY & DENIAL OF SERVICES

- Based on 42 CFR 8.12 (e) and ASAM Criteria

Section II

ASAM Requirements, Screening, Evaluations, Treatment Plan, and Discharge/Transfer Quality Expectations

Presented by
WellSense

SCREENINGS

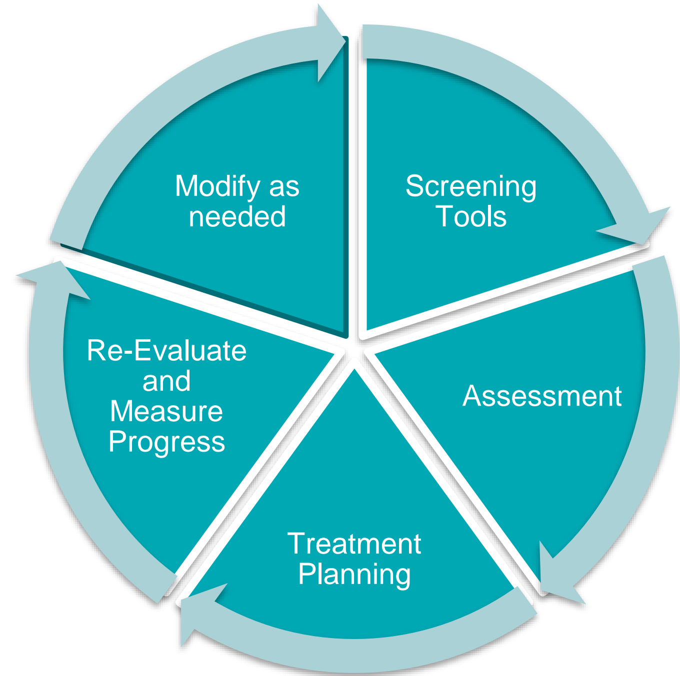
Beyond the regulations:

- Screening tools are beneficial <u>beyond the entry point of care</u>: they can be used to inform treatment plans, evaluate risk, and measure progress

- Screening tools should be used as part of an on going
cycle to evaluate treatment needs and progress

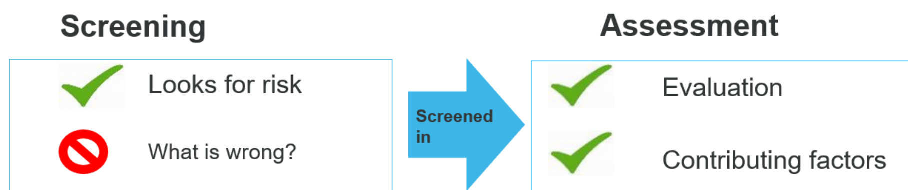
- Any screening tool use should be verified and validated.
Some commonly used tools are:

  PHQ-9
  Beck Depression Inventory
  Columbia – Suicide Severity Rating
  AUDIT



EVALUATIONS

For members who screen into care, an evaluation should be completed with the following regulations in mind:



The information gathered during the evaluations shall be used to:

Determine if a client meets DSM-5 criteria for a opioid use disorder and document the appropriate DSM-5 diagnosis(es)

Determine the appropriate initial level of care for the client based on ASAM Criteria

Develop the client's treatment plan in accordance with He-A 304.23

Each client shall have a medical examination conducted in accordance with 42 CFR Part 1, 8.12(f) (2)

ASAM REQUIREMENTS

The American Society of Addiction Medicine (ASAM)

What is ASAM Criteria:

A collection of standardized methods that results in information to guide providers to make an appropriate level of care placement. ASAM criteria also supports continued care, integrated care, and beneficial transfer through the treatment continuum. ASAM criteria consists of six (6) dimensions each with a severity rating.

How often should ASAM Criteria be updated?

ASAM Criteria should be completed on admission to document the member is seeking the appropriate level of care

ASAM Criteria should be updated whenever there are significant changes such as:

- Achieving treatment plan goals
- Lack of progress in current level of care or with identified goals
- Identification of new problems by the member
- Transferring from one level of care to another

As we review its important to remember:

ASAM criteria is the foundation of all substance use disorder treatment. The information gathered by reviewing the six dimensions not only drives the level of care recommendation but also the treatment plan, services rendered, and transfer or discharge from care.

ASAM REQUIREMENTS (continued)

The American Society of Addiction Medicine (ASAM) continued

ASAM criteria plays a significant role in treatment:

- It encourages providers to move away from fixed lengths of stay toward clinically driven interventions with expressed intention and evaluated results
- ASAM guidelines state the preferable level of care is the least intensive option while still meeting treatment objectives and providing safety and security for the member
- Using ASAM criteria regularly helps providers stress that treatment outcomes are key; repeated cycling through assessment, adjusting the plan, and adjusting the placement or interventions
- The provider must inform the patient of all the options and the patient must choose to accept the treatment intervention; ideally the family is informed and accepts the intervention. ASAM levels of care give members options and keep personal choice in focus
- Medical necessity looks at the whole person to make an intervention recommendation rather than emphasizing any one dimension

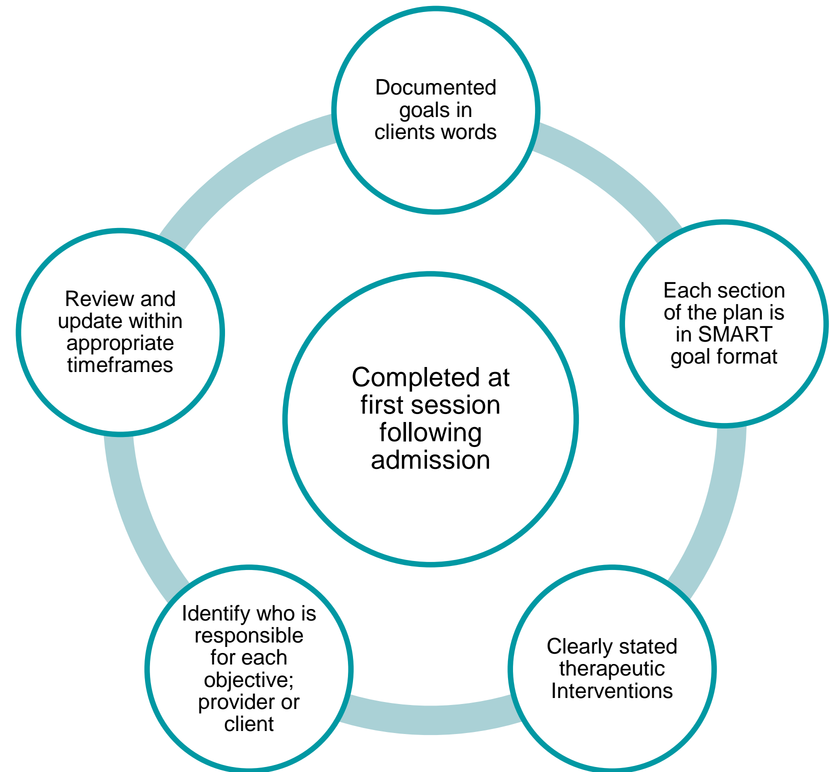
TREATMENT PLAN

What is a treatment plan?

A working and **flexible document** that includes objective and measurable goals with clearly defined timeframes for achieving stated goals and planned treatment inventions

How often is a treatment plan updated?

- Treatment plans should be developed in the **first session** following the evaluation
- The initial treatment plan and all updates should be signed by the client, provider, and **medical director**
- Treatment plans shall be reviewed no less frequently than **every 4 sessions or every 4 weeks**, whichever is less frequent
- Changes in any one of the ASAM Criteria warrant a treatment plan review



Updates should include:

- Documentation the client **continues to meet ASAM** criteria for their current level of care
- Assess symptomatic and functional progress
- Assess risk
- Include client updates stated in **their own words**

TREATMENT PLAN CONTINUED

Example of a SMART goal:

Specific (goal): "I want to stop using but I don't know what to do."

Measureable (objective): Kim agreed to attend the "Coping Skills" group as its scheduled 2x per week on Tuesday and Thursday at 1pm. She will check in with this provider on 10/27/22 to review her journaling and will be able to identify and discuss or additional coping skill she has practiced outside of group.

Attainable: Kim states "I just completed an IOP so I like groups, I remember I liked journaling. I'm only working a few hours a week so I can come both days."

Realistic: Kim reported " I live right down the street so I can walk here some days but I might need a ride

Timely (intervention): This provider will connect with Kim's insurance coverage today to set up transportation to appointments. This provider gave Kim the group schedule and highlighted the "Coping Skills" group days and times. Kim stated she plans to attend the first group, tomorrow Thursday 10/2022. Kim and this provider agree to meet after her 4th group is completed on October 27, 2022 at 2pm to review coping skills and review her treatment plan.

Specific

Measurable

Attainable

Realistic

Timely

DISCHARGE / TRANSFER QUALITY EXPECTATIONS

Ideally discharge or transfer of care is an **opportunity to develop a plan** to help ensure the member is set up for **success beyond one provider**. Identifying needs at admission and throughout treatment, positive referral pathways within the community, diligence with releases of information, and open communication between members and their treatment teams all assist in helping providers practice continuity and coordinate of care.

While planning for discharge might seem like it would come at the end of a treatment episode, it should start right in the beginning alongside treatment planning. Just like a treatment plan, discharge plans should be:

- Individualized to the client
- Include documented evidence that natural supports and community based supports were identified and shared with the client,
- All follow up appointments are scheduled with current or new providers and the client has their appointments and contact information
- Essentially the discharge plan should look like a timeline of follow up appointments along with specific resources, with contact information, for the client. This plan is documented evidence a path has been set for the client to transfer from your care into the care and support of others smoothly.

Questions?

Section III

Medical Director Expectations, Medical Exams, Transfer Documentation, Take-Home Dosing, Drug Testing, Counseling, Pregnancy Testing

Presented by
AmeriHealth Caritas

AmeriHealth Caritas

The information contained in the slides comes directly from NH DHHS, NH He-A 304 and 42 CFR Part 1 8.12

Disclaimer: These slides and subsequent training do not replace the review and adherence to federal and/or state rules and regulations

MEDICAL DIRECTOR EXPECTATIONS

He-A 304.23

- ***Designated*** Medical Director
  - Responsible for all medical services
  - Ensures rules and regulations are followed
- Needs to be very familiar with the rules and regulations (ie: treatment plan updates, ongoing regular need evaluations)

42 CFR Part 1, 8.12(b)

- Responsible for ensuring compliance with **all applicable Federal, State, and local laws and regulations**

MEDICAL EXAMS

He-A 304.21

- Medical exam required per 42 CFR Part 1, 8.12(f)(2)

42 CFR Part 1, 8.12(f)(2)

- Complete, fully documented physical evaluation **before admission**

Exception per He-A 304.28

- Transfer clients
  - If last exam was within 3 months, new exam not necessary
  - **Must be documented** in the record within 30 days of admission

TRANSFER DOCUMENTATION FOR INCOMING CLIENTS

He-A 304.28

- Request prior records after obtaining release of information
- Include:
  - Clinical record – attendance, dosage, prior UDS, medical info, discharge summary, etc.

- Take-home doses
  - Continue at same level
    - **Only after verifying compliance in previous program**

TAKE-HOME DOSING REQUIREMENTS

He-A 304.23 & Table 304.1

Consecutive Days of Compliance	Required Counseling Hours per Month	Allowed Take-Home Doses per Week
1-90	8	0
91-180	8	1
181-364	6	2
365-540	4	3
541-730	4	4
731-909	2	5
910+	1	6

- **Compliance**:
  - Negative UDS
  - Attending all required counseling
- As **compliance increases**, take-home **allowance increases**
- **Consecutive days**
  - Not number of days in treatment

TAKE-HOME DOSING REQUIREMENTS (continued)

He-A 304.25

- **Only** approve if client meets criteria per 42 CFR Part 1, 8.12(h)(4)(i)(2)

42 CFR Part 1, 8.12(h)(4)(i)(2)

- Medical director makes decision
- Consideration:
  - **Negative UDS**
  - Regular attendance (for counseling, too)
  - Stable
  - Securable
  - Etc.

TAKE-HOME DOSING REQUIREMENTS (continued)

He-A 304.25

- **Must** have counseling on safe transport at **each** eligibility change
- Ongoing approval **must** be documented at **each** progress review
- If pick-up day is a holiday, one extra take-home is approved
- If flexibility is necessary, **must** submit a **waiver** explaining why

TAKE-HOME DOSING REQUIREMENTS DURING COVID

- March of 2020 - SAMHSA issued blanket exception
  - Stable patients - 28 days of take-home doses
  - Less stable patients - 14 days of take-home doses
- Extended as of March of 2022 - may become permanent
  - Additional guidance on “stable” and “less stable”

	Min Days in Tx	Tx Adherence	Benefits > Risks	Min Days (-) UDS	(-) Serious Behav Probs	Stable Living & Relationships	(-) Sub Misuse Related Behav	(-) Recent Diversion Activity	(+) Meds Stored Safely
Stable	60	Total 60 Days	Yes	60	Yes	Yes	Yes	Yes	Yes
Less Stable	30	Partial 30 Days	Yes	30	No	No	No	Yes	Yes

DRUG TESTING

He-A 304.24

- OTPs must perform drug screens of members.
  - At least 1 per week for the first 3 months of treatment
  - At least 1 per month after the first 3 months of treatment
- **Required** to test for:
  - Opiates, Methadone, Buprenorphine, Amphetamines, Cocaine, Benzodiazepines, Cannabis, and Methamphetamine
- **Only** considered positive if not directed by a licensed practitioner.
- **Only** considered positive if a disputed result undergoes **definitive** testing
  - Per NH DHHS
    - Beneficial to utilize **local labs** for a better turn around time and to **improve member outcomes**

COUNSELING HOURS

He-A 304.23 & Table 304.1

Consecutive Days of Compliance	Required Counseling Hours per Month	Allowed Take-Home Doses per Week
1-90	8	0
91-180	8	1
181-364	6	2
365-540	4	3
541-730	4	4
731-909	2	5
910+	1	6

- **Compliance**
  - Negative UDS
  - Attending Counseling
- As **consecutive** days of compliance **increase**, **required** counseling hours per month **decrease**
- **CONSECUTIVE days**
  - **NOT number of days in treatment**

COUNSELING (continued)

He-A 304.23

- Based on individualized treatment plan
  - Includes any combination of individual, group of family **SUD treatment services**, case management up to 25%, discussions regarding discontinuation
- Group counseling
  - Outline of each group
  - Limited to 12 clients or fewer per counselor
    - Number of clients and counselor information should be included in the record to support compliance
- **Document and keep in record**

COUNSELING HOURS - Telehealth

NH Medicaid Telehealth Informational Bulletin – COVID-19 Preparedness and Response – April 1, 2020

RSA 167:4-d Medicaid Coverage of Telehealth Services

Requirements for telehealth:

- **Documented** consent –written document signed by member
- RSA 167:4-d, IV-a With written consent of the patient receiving medication assisted treatment through telehealth services provided under this section, the health care provider shall provide notification of the patient's medication assisted treatment to the doorway, as defined in RSA 167:4-d, II(c), within the region where the patient resides.
- Billed with the **GT modifier** and a **place of service 02**
- Certain platforms are not permitted, such as Facebook Live, Twitch and TikTok
- Include method of communication in the record as well as the reason for the telehealth.

PREGNANCY TESTING

He-A 304.23(d)

- Required to test female clients of childbearing **monthly**
  - Unless contraindicated by sexual orientation or physiological factors, which would need to be documented to justify lack of testing
- If pregnancy is confirmed:
  - Refer for prenatal care and coordinate with providers
  - Document prenatal care refusal and have member sign refusal
    - Document the refusal to sign refusal

He-A 304.18

- Enter pregnancy status into WITS within 3 days of admission and discharge

Records should include all pregnancy tests and results.

Questions?

Section IV

Staff Qualifications, Supervision Requirements, Licensing and Screening Requirements, and Quality Management

Presented by
New Hampshire Healthy Families

The information presented in this section contains highlights of requirements set forth in New Hampshire Administrative Code PART He-A 304 CERTIFICATION AND OPERATIONAL REQUIREMENTS FOR OPIOID TREATMENT PROGRAMS (OTPs). The OTPs are responsible for reading the code in its entirety:

https://casetext.com/regulation/new-hampshire-administrative-code/title-he-a-former-office-of-alcohol-drug-abuse-prevention/chapter-he-a-300-certification-and-operation-of-alcohol-and-other-drug

STAFF QUALIFICATIONS FOR SPECIFIC DUTIES

He-A 304.17 Personnel Requirements.

- The certificate holder/OTP shall employ an administrator responsible for the day-to-day operations of the OTP.
- The OTP shall employ a medical director that meets the requirements of He-A 304.23.

STAFF QUALIFICATIONS FOR SPECIFIC DUTIES (CONTINUED)

He-A 304.17 Personnel Requirements.

The certificate holder is required to obtain and review a criminal records check from the New Hampshire department of safety, for all applicants for employment, contractors, volunteers, and student interns, except, pursuant to RSA 151:2-d, VI, for those licensed by the New Hampshire board of nursing.

STAFF QUALIFICATIONS FOR SPECIFIC DUTIES (continued)

He-A 304.17 <u>Personnel Requirements</u>.

The OTP should not employ anyone who:

- Has been convicted of a felony.
- Has been convicted of or had a finding by the department or any administrative agency a sexual assault, other violent crime, assault, fraud, theft, abuse, neglect, or exploitation.
- Otherwise poses a threat to the health, safety, or well-being of clients.

STAFF QUALIFICATIONS FOR SPECIFIC DUTIES (continued)

He-A 304.17 <u>Personnel Requirements</u>.

The OTP should not employ anyone who:

- Has been convicted of a felony.
- Has been convicted of or had a finding by the department or any administrative agency a sexual assault, other violent crime, assault, fraud, theft, abuse, neglect, or exploitation.
- Otherwise poses a threat to the health, safety, or well-being of clients.

STAFF QUALIFICATIONS FOR SPECIFIC DUTIES (continued)

He-A 304.17 Personnel Requirements.

The certificate holder shall check the names of all applicants (including contractors, volunteers, and interns) against the bureau of elderly and adult services (BEAS) state registry, maintained pursuant to RSA 161-F:49 and He-W 720, prior to employing, contracting with, or engaging them.

If a candidate is listed on the BEAS state registry, the certificate holder shall not employ, contract with, or engage unless a waiver is granted by BEAS.

STAFF QUALIFICATIONS FOR SPECIFIC DUTIES (continued)

He-A 304.17 <u>Personnel Requirements</u>.

All staff, including contracted staff, volunteers, and student interns, shall:

- Meet the educational, experiential, and physical qualifications of the position as listed in their job description.

- Be licensed, registered, or certified as required by state statute and as applicable.

SUPERVISION REQUIREMENTS

He-A 304.17 <u>Personnel Requirements</u>.

The OTP shall meet the minimum staffing requirements:

(1) At least one:

a. Masters licensed alcohol and drug counselor (MLADC); or

b. Licensed alcohol and drug counselor (LADC) who also holds the licensed clinical supervisor (LCS) credential;

(2) Sufficient staffing levels that are appropriate for the services provided and the number of clients served.

SUPERVISION REQUIREMENTS (continued)

He-A 304.17 Personnel Requirements.

(3) All unlicensed staff providing treatment, education, and/or recovery support services shall be under the direct supervision of a licensed supervisor.

(4) No licensed supervisor shall supervise more than 8 unlicensed staff.

(5) Unlicensed staff shall receive at least one hour of supervision for every 20 hours of direct client contact.

(6) Supervision shall be provided on an individual or group basis, or both, depending upon the employee's need, experience, and skill level.

SUPERVISION REQUIREMENTS (continued)

He-A 304.17 Personnel Requirements.

- Supervisors shall maintain a log of the supervision date, duration, content, and who was supervised by whom.
- Individuals shall receive supervision in accordance with the requirements set forth for the license(s) held by the individual.

LICENSING AND SCREENING REQUIREMENTS

He-A 304.04 Processing of Initial Applications and Issuance of Certifications.

To be certified under He-A 304, an applicant shall have:

- A current registration with the U.S. Drug Enforcement Administration in accordance with 21 CFR 1301-1307; and
- A pharmacy in compliance with RSA 318:51-b and licensed in accordance with Ph 600 as a limited retail drug distributor as defined in RSA 318:1, VII-a.

QUALITY MANAGEMENT
(10% QUARTERLY)

He-A 304.19 Quality Management.

- The OTPs shall conduct a client record review of a minimum of 10% of the open client records on a quarterly basis.

- The OTPs shall document the results of the review in a quarterly quality management report, including:

  (1) The number of records reviewed;

  (2) A summary of the review results;

  (3) A description of any deficiencies identified;

QUALITY MANAGEMENT (continued)
(10% QUARTERLY)

He-A 304.19 <u>Quality Management</u>.

(4) The corrective action taken

(5) An evaluation of the effectiveness of the corrective action taken

(6) A summary of unmet service needs.

The OTPs shall retain the quarterly quality management report for two years and make them available to the department upon request.

Questions?

Section V

Documentation Requirements for Medical Records and Provider Enrollment

Presented by
DHHS, Bureau of Program Integrity

MEDICAL RECORD DOCUMENTATION REQUIREMENTS

He-A 304.18 Client Record System Requirements:

- Documentation of all elements of initial screening and evaluation required in He-A 304.21
- Documented medical examination conducted in accordance with 42 CFR Part 1,8.12(f)(2)
- Individual Treatment Plan developed in the first session following the evaluation and reviewed no less frequently than every 4 sessions or every 4 weeks and updated based on any changes in the ASAM criteria(2013)
- Documentation of all client services including but not limited to:
    - Progress notes detailing all medication and clinical services as follows;

MEDICAL RECORD DOCUMENTATION REQUIREMENTS (continued)

Required Hours of Counseling per month according to consecutive days in **Compliance** with **He-A 304.24(o)**

- Any combination of individual, group or family substance use disorder treatment services
- Documentation of each session shall be in the client record system
- An outline of each educational and group therapy session provided
- All group counseling sessions shall be limited to 12 clients or fewer per counselor
- Signature of Clinical staff

Allowed Days supply of Take Home Doses per Week

- Record all doses provided to the client in person and take home

PROVIDER ENROLLMENT

All participating methadone clinic providers shall be a NH Medicaid provider, be organized and operated independently from a hospital pursuant to 42 CFR 440.90, and be composed of licensed practitioners who meet the provider requirements for the particular medical service being performed. All service locations require a separate application.

Medical Director, Master Licensed Alcohol and Drug Counselors (MLADAC's) and Licensed Alcohol and Drug Counselors (LADAC's) to name a few are to enroll as Individual non-billing providers, and NPI is required on claims as renderer of services.

Member care must be provided on an outpatient basis and under the supervision of a licensed physician affiliated with the clinic which means that (a) the physician is readily available to provide direction either by phone or in person; (b) the physician has seen the member as a patient at least once and assesses the need for continuing care as necessary; and (c) the physician assumes professional responsibility for the services provided to the member.

Questions?

Section VI

Third Party Liability Billing Requirements

Presented by
DHHS, Bureau of Program Integrity

THIRD PARTY LIABILITY BILLING REQUIREMENTS

Regulatory Change

Effective January 1, 2020, Medicare expanded their Part B coverage to include Opioid Treatment Programs (OTPs), including medication-assisted treatment (MAT), toxicology testing, and counseling as authorized under Section 2005 of the Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act and implemented in the final rule CMS-1715-F.

THIRD PARTY LIABILITY BILLING REQUIREMENTS (continued)

What does this mean for Medicare/Medicaid Members who receive OTP services?

- For those enrolled in Medicare and Medicaid who receive OTP services through Medicaid, Medicare became the primary payer for OTP services.
- OTP providers must bill Medicare to receive payment for services covered by Medicare.
- NH Medicaid will no longer pay OTP claims that have not been submitted to Medicare for payment.
- NH Medicaid and MCOs all receive crossover claims from Medicare to pay any patient responsibility. OTPs do not have to send any claims to NH Medicaid or MCOs for payment.

Questions?

Section VII

Waiver Requests

Presented by
DHHS, Bureau of Drug & Alcohol Services

WAIVERS

An OTP applicant or certificate holder may request a waiver of a specific provision of He-A-304, in writing, from the department.

No provision or procedure prescribed by statue shall be waived.

Waivers shall not be transferable.

A waiver shall be permanent unless the department specifically places a time limit on the waiver

When a certificate holder wishes to renew a non-permanent waiver beyond the approved period of time, the certificate holder shall apply for a new waiver with the renewal application or at least 60 days prior to the expiration of the existing waiver, as appropriate, by submitting the information as a new waiver

Regulatory Overview

Opioid treatment programs (OTPs) are regulated by two federal agencies: the Substance Abuse and Mental Health Services Administration (SAMHSA) and the Drug Enforcement Administration (DEA). As an agency within the U.S. Department of Health and Human Services, SAMHSA regulates the public health aspects of OTP operations. Specifically, under 42 CFR Part 8. SAMHSA has administrative responsibility and oversight for treatment delivered by these programs. To be certified by SAMHSA, an OTP must be accredited by a CSAT-approved accrediting body like CARF (Commission on Accreditation of Rehabilitation Facilities). CARF accredits the majority of OTPs in the U.S. DEA, as an agency within the U.S. Department of Justice, is responsible for program security, including medication storage, recordkeeping, and dispensing. Under the Controlled Substances Act, the DEA has primary responsibility for regulating the use of controlled substances for legitimate medical, scientific, research, and industrial purposes, and for preventing these substances from being diverted for illegal purposes. DEA regulations are documented in 21 CFR Parts 1300 to End.[1] In addition, OTPs are subject to state regulations including He-A 304.

[1] For a full discussion of DEA regulations for OTPs, please see Narcotic Treatment Program Manual: A Guide to DEA Narcotic Treatment Program Regulations, Revised 2022, available at https://www.deadiversion.usdoj.gov/GDP/(DEA-DC-056)(EO-DEA169)_NTP_manual_Final.pdf

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