

## KANSAS

*This summary of state regulations and policy represents only a snapshot at a point in time, is not comprehensive, and should not be taken to constitute legal advice or guidance. State Medicaid requirements are included at the end of this summary.*

### Types of Facilities

*Mental Health (MH):* Kansas refers to residential treatment facilities as a subset of regulated Community Mental Health Centers (CMHCs), which include county-established CMHCs and county board of health-established mental health clinics but are otherwise not defined.

*Substance Use Disorder (SUD):* Kansas regulates four subtypes of residential treatment programs, which are generally defined as “live-in alcohol/drug treatment programs that operate 24 hours a day.” This includes:

- *Intermediate treatment:* Provides a regimen of structured services in a 24-hour residential setting. They are housed in or affiliated with permanent facilities where individuals can reside safely. For the typical resident in an intermediate treatment program, the effects of the substance abuse on the individual’s life are so significant, and the resulting level of impairment so great, that a less intensive modality of treatment is not feasible or effective. The duration of intermediate treatment should be determined by the individual’s illness and his or her response to treatment.
- *Therapeutic community:* Typically longer term (3 months to 2 years) and is designed to treat individuals who have significant social and psychological problems. These programs are characterized by their reliance on the treatment community as a therapeutic agent. The treatment goals are to effect a global change on the participant’s lifestyles, attitudes and values. The typical individual residing in a therapeutic community may be experiencing multiple problems including substance abuse, criminal activity, psychological problems, impaired functioning and disaffiliation with mainstream values. Duration is longer term (3 months to 2 years).
- *Social detoxification:* Typically short term (less than 7 days) and provides 24-hour supervision, observation and support for individuals who are intoxicated or experiencing withdrawal from other drugs. This modality of care provides services for those individuals whose intoxication/withdrawal signs and symptoms are severe enough to require 24-hour structure and support.
- *Acute detoxification:* Provides care to individuals whose withdrawal signs and symptoms are sufficiently severe to require primary medical and nursing care services. In this

modality of treatment, 24-hour observation, monitoring and counseling services are available.

*Unregulated Facilities:* State staff confirmed there currently are no unregulated residential treatment facilities. According to the KDADS Survey, Certification and Credentialing Commission website<sup>1</sup>, Residential Care Facilities, which are not included in this summary, are “not mental health treatment facilities.”

## **Approach**

*Mental Health (MH):* The Kansas Department for Aging and Disability Services Survey, Certification and Credentialing Commission licenses and regulates all CMHCs.

*Substance Use Disorder (SUD):* The Secretary of Social and Rehabilitation Services, Division of Health Care Policy licenses and regulates all alcohol or other drug abuse treatment programs in the state.

## **Processes of Licensure or Certification and Accreditation**

*Mental Health (MH):*

- Licensure is required for all CMHCs, including residential psychiatric programs. Licensure duration is two years, before which time a renewal application must be submitted. A provisional license may be granted for up to 6 months at a time. An inspection “may” take place for licensure or renewal.
- Accreditation is not required but, if accredited, that must be specified in the application for licensure.
- Although Kansas does not have specific Certificate of Need requirement, there are similar requirements wherein a new center cannot be established if the proposed center’s service area is already being served by one or more existing licensed centers, unless there are other extenuating circumstances.

*Substance Use Disorder (SUD):*

- Licensure is required for all alcohol or other drug abuse treatment programs. Initial licensure duration is not indicated in the regulations, but a renewal application duration

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<sup>1</sup> See <https://www.kdads.ks.gov/commissions/survey-certification-and-credentialing-commission>.

may be between one and three years, depending on compliance with standards. An inspection is required for licensure and renewal.

- Accreditation is not required but accreditation by the Joint Commission, CARF, or the Council on Accreditation makes the facility eligible for certification in place of full licensure requirements.
- Kansas does not have a specific Certificate of Need requirement.

## **Cause-Based Monitoring**

*Mental Health (MH):* After licensure approval, each center must annually obtain an independent audit of the financial affairs and records of the center. A resurvey may be conducted at any time by the licensing agency and a plan of corrective action may be required if warranted due to regulatory noncompliance. Failure to take corrective action may result in denial, suspension, or revocation of a license.

*Substance Use Disorder (SUD):* Unscheduled site visits may take place. If a facility is not in compliance with standards, a corrective action plan is required and failure to remedy violations may result in suspension or revocation of license.

## **Access Requirements**

*Mental Health (MH):* CMHCs have both wait time and access standards they must adhere to. Wait time standards include determination of whether the request for treatment constitutes an emergency, an urgent matter, or a routine matter. Based upon this assessment, the appropriate care is identified and, assuming inpatient care is not needed, the care must be provided within a “timely period.” In the event that the center cannot comply with the requirements of this regulation, the appropriate staff member shall document in the consumer’s clinical record, the reason or reasons why the center was unable to comply with the requirements of this regulation.

Access standards indicate that each center shall make every reasonable effort to overcome any health or sociocultural barriers that consumers may have to receiving services (e.g., physical disabilities, language or other communication barriers, childcare issues). In addition, the contact information for the center, including address, phone and office hours, as well as the types of services provided and where the center is located within multi-use buildings, should be clearly advertised and posted. Requirements are also indicated for appropriate communication materials to advertise and operate services at the center.

*Substance Use Disorder (SUD):* Pregnant women are given priority access to substance abuse residential treatment.

## **Staffing**

*Mental Health (MH):* CMHCs are generally subject to regulations governing the responsibility of its executive director. Professional staff must meet applicable licensing and training standards and there must be qualified clinical supervision. Responsibility for client medical needs lies with a licensed physician and, if that person is not a psychiatrist, there must be psychiatric consultant. There also are requirements related to those providing community services, volunteers, and students. Policies must include, among other things, requirements related to staff evaluation, staff skills, and guidelines available from the state. Services in residential facilities must “be provided by appropriately trained or professionally qualified staff.” Researchers found no requirements related to staffing levels or ratios or training regarding trauma informed care.

*Substance Use Disorder (SUD):* Substance use treatment facilities generally must have policies and procedures related to compliance with applicable laws, hiring, evaluation, conduct, infection control, maintenance of a “Drug-Free Workplace”, job descriptions, and personnel records, among other things. The general regulations include very specific requirements related to training, qualifications, scope of practice, and supervision for counselor assistants, credentialed alcohol and other drug abuse counselors, and trainees. There also are requirements regarding the executive director’s responsibilities. Staffing requirements related to specific facility types include:

- Acute detoxification: There must be a registered nurse or licensed practical nurse on duty 24 hours a day on the unit and 24 hour evaluation and withdrawal management performed by medical professionals in a licensed health care or substance abuse treatment facility.
- Intermediate treatment: There must be minimum of one qualified staff for every eight clients in residence and sufficient employees on duty 24 hours a day to meet the needs and protect the safety of clients. Employees on duty shall be awake on all shifts.
- Social detoxification: There must be minimum of one qualified staff for every fifteen clients in residence and sufficient employees on duty 24 hours a day to meet the needs and protect the safety of clients. Employees on duty shall be awake on all shifts.
- Therapeutic community treatment services: There must be minimum of one qualified staff for every ten clients in residence and sufficient employees on duty 24 hours a day to meet the needs and protect the safety of clients. Employees on duty shall be awake on all

shifts. All qualified staff, staff and employees must complete and maintain current Cardiopulmonary Resuscitation/First Aid training.

## **Placement**

*Mental Health (MH):* CMHC services have an initial assessment requirement. Researchers did not locate reference to LOCUS.

*Substance Use Disorder (SUD):* The general requirements for substance use treatment facilities require them to have procedures for assessment including use of a “substance abuse assessment tool to provide additional clinical information and justification for modality of treatment recommended.” Researchers did not locate reference to ASAM or to other placement requirements.

## **Treatment and Discharge Planning and Aftercare Services**

*Mental Health (MH):* Treatment planning is required, with reviews and revision occurring at periodic intervals of not more than 90 days. Discharge planning is required that includes, among other things, referrals to other treatment providers and supportive services when appropriate and a plan for appropriate post-discharge or post-termination of treatment contact by staff with the consumer and, if appropriate, with one or more members of the consumer’s family or other individuals designated by that consumer.

*Substance Use Disorder (SUD):* An individualized treatment plan must be completed for a client in residential services no later than 7 days after the date of admission. Updates are required no later than every 30 days. Client input is required. Discharge planning is required.

## **Treatment Services**

*Mental Health (MH):* CMHCs, including residential facilities, shall provide as appropriate each of the following basic community support services, among others: (1) Orientation services; (2) public education; (3) emergency treatment and first response services, 24-hours-per-day, seven-days-per-week; (4) basic outpatient treatment services including evaluation and diagnosis, individual, group, and family therapy, medication management; and (5) basic case management services for adults.

*Substance Use Disorder (SUD):* In addition to services specified in 1a, services specific to the types of facilities are as follows:

- Intermediate treatment shall consist of at least 40 hours each week of scheduled, structured activities to include: (1) A minimum of 10 hours per week of individual, group, and/or family counseling; (2) Life skills; (3) Recreational groups; and (4) Self-help support meetings. The facility must assure access to consultation with a licensed physician.
- Therapeutic community treatment shall provide at least 20 hours each week of scheduled, structured activities to include: (1) A minimum of 5 hours per week of individual, group, and/or family counseling; (2) Community participation; (3) Life skills; (4) Recreational groups; and (5) Self-help support meetings. The facility must assure access to consultation with a licensed physician.
- Social detoxification shall: (1) Observe and provide support for clients who are intoxicated or are experiencing withdrawal; (2) Monitor and document vital signs; and (3) Conduct an assessment for the client's potential withdrawal using an appropriate clinical tool. The facility must assure access to consultation with a licensed physician.
- Acute detoxification shall: (1) Provide a 24 hour evaluation and withdrawal management performed by medical professionals in a licensed health care or substance abuse treatment facility; (2) Provide services based on policies and procedures that have been approved by the physician; (3) Complete a comprehensive medical assessment and physical examination for each detoxification client at the time of admission; and (4) Maintain access to laboratory and toxicology testing.

## **Patient Rights and Safety Standards**

*Mental Health (MH) and Substance Use Disorder (SUD):* All behavioral health providers must report to the state all adverse incidents and serious occurrences involving individuals receiving services by licensed providers. Such incidents include death, physical abuse, inappropriate sexual conduct, medication misuse, psychological abuse, neglect, suicide attempt, serious injury, elopement, or natural disaster. There are provisions for investigation and corrective action, as necessary.

*Mental Health (MH):* CMHCs are required to have a complaint process accessible to patients. Decisions on complaints may be appealed to the state by the consumer. Use of restraint and seclusion is required to be reported to the state in instances resulting in serious injury.

*Substance Use Disorder (SUD):* All substance use treatment facilities must ensure the clients receives a copy of the document identifying their rights, which include but are not limited to the rights to dignity; non-abuse; safety; to be free from restraint or seclusion used as a means of coercion, discipline, convenience, or retaliation; nondiscrimination; privacy; to refuse treatment; informed consent; to be treated in the least restrictive setting; to make a

grievance/complaint; and to have visitors. Complaints of violations of licensing standards are investigated by the state.

## **Quality Assurance or Improvement**

*Mental Health (MH):* CMHCs, including residential facilities, are required to adopt and adhere to written policies and procedures that provide for a comprehensive quality improvement program designed to continually measure, assess, and improve the quality of the services that are provided by the center, any affiliated center, or any other provider with which the center has an affiliation agreement. These policies and procedures shall require measures of consumer satisfaction with treatment, consumer feedback to staff, procedures to ensure access to information about the risk management and utilization management programs by those responsible for quality improvement, and 5-years of records demonstrating compliance with these regulations.

*Substance Use Disorder (SUD):* All substance use disorder treatment facilities must have a risk management review process involving incidents that present a risk of harm to consumers, staff, and other individuals, including the public at large. They also must have a quality improvement plan designed to assess, measure, improve, and maintain the quality of services provided.

## **Governance**

*Mental Health (MH):* CMHCs do have board composition requirements.

*Substance Use Disorder (SUD):* The general substance use treatment regulations include requirements related to the provider's governing authority, including requirements related to policies, the executive director's duties, and operating procedures.

## **Special Populations**

*Mental Health (MH):* Requirements regarding residential services were not explicitly described in the state regulations.

*Substance Use Disorder (SUD):* Kansas has eight Designated Women's Substance Abuse Treatment Programs. Designated Women's Programs provide specialized services to meet the needs of women and their children, as well as give priority admission to pregnant women, women with dependent children and women using IV drugs. Pregnant women are given priority status by federal mandate for admission to treatment. All pregnant women must be offered an assessment within 24 hours of initial contact, and admitted into treatment within 48 hours, as clinically indicated. Women with dependent children, including those who are attempting to

regain custody, are also given priority status by a state mandate for admission to treatment. Women who use IV drugs are given priority status by federal mandate for admission to treatment. All women using IV drugs must be offered an assessment and admitted into treatment within 14 days, as clinically indicated.

## **Location of Regulatory and Licensing Requirements**

KDAD Article 60--Licensing of Community Mental Health Centers<sup>2</sup>; Kansas DOADS Community Services<sup>3</sup>; and Kansas DOADS Programs Commission Substance Use Treatment Services<sup>4</sup>; Adverse Incident Reporting<sup>5</sup>. Regulatory data collected May 9, 2019.

## **Other Information Sources**

S. Simpson, KDADS; National Conference of State Legislatures CON Program Overview, <http://www.ncsl.org/research/health/con-certificate-of-need-state-laws.aspx>

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<sup>2</sup> See [https://www.kdads.ks.gov/docs/default-source/survey-certification-and-credentialing-commission/bhs-licensure---alcohol-and-drug-evaluators/cmhcs/cmhc-regulations-series-30-60-thru-30-61.pdf?sfvrsn=8d1739ee\\_2](https://www.kdads.ks.gov/docs/default-source/survey-certification-and-credentialing-commission/bhs-licensure---alcohol-and-drug-evaluators/cmhcs/cmhc-regulations-series-30-60-thru-30-61.pdf?sfvrsn=8d1739ee_2).

<sup>3</sup> See <https://www.kdads.ks.gov/commissions/behavioral-health/consumers-and-families/services-and-programs/substance-use-disorder-treatment-services>.

<sup>4</sup> See <https://www.kdads.ks.gov/commissions/survey-certification-and-credentialing-commission>.

<sup>5</sup> See [https://www.kdads.ks.gov/docs/default-source/survey-certification-and-credentialing-commission/bhs-policies-and-regulations/General/licen-310---adverse-incident-reporting.pdf?sfvrsn=3cba39ee\\_0](https://www.kdads.ks.gov/docs/default-source/survey-certification-and-credentialing-commission/bhs-policies-and-regulations/General/licen-310---adverse-incident-reporting.pdf?sfvrsn=3cba39ee_0).



# KANSAS MEDICAID

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## Approach

*Mental Health (MH) and Substance Use Disorder (SUD):* The Kansas Department of Health and Environment oversees the state Medicaid program. Researchers found no evidence of Medicaid coverage of residential mental health treatment for adults. The Kansas section 1115 waiver permits Medicaid coverage of expenditures for otherwise covered services furnished to otherwise eligible individuals who are primarily receiving treatment and withdrawal management services for substance use disorder (SUD) who are short-term residents in facilities that meet the definition of an institution for mental disease diseases (IMD). Kansas does not rely on the in lieu of provision to fund aspects of services provided in IMDs but historically has relied on Disproportionate Share Hospital (DSH) payments for certain services in an IMD.

## Types of Facilities

*Substance Use Disorder (SUD):* The residential settings identified in the waiver as eligible for coverage include the following ASAM Levels:

- Level 3.1
- Level 3.3
- Level 3.5
- Level 3.7
- Medically supervised withdrawal management

Medication-assisted treatment is also to be available to those in IMDs.

## Processes of Medicaid Enrollment

### *Mental Health (MH) and Substance Use Disorder (SUD):*

- Facilities offering medical services shall be licensed or certified by an appropriate Kansas state licensing or certification authority in order to be eligible for reimbursement by the Medicaid/Medikan program.
- Each provider seeking to participate shall perform the following, among other things: (1) Submit an application for participation in the Medicaid/Medikan program on forms prescribed by the secretary of the Kansas department of social and rehabilitation services; (2) obtain and maintain professional or department-specified credentials determined by the secretary in the jurisdiction where the service is provided and for the time period when the service is provided and, if applicable, be certified, licensed, or registered by the appropriate professional credentialing authority; (3) notify the Kansas department of social and rehabilitation services if any of the original information provided on the application changes during the term of participation in the Medicaid/Medikan program; (4) after completing the necessary application forms and receiving notice of approval to participate from the department, enter into and keep a provider agreement with the Kansas department of social and rehabilitation services; and (5) notify the Kansas department of social and rehabilitation services when a change of provider ownership occurs, submit new ownership information on forms for application for participation in the Medicaid/Medikan program, and receive approval from the department for participation as a new provider before reimbursement for services rendered to Medicaid/Medikan program consumers is made. Participation can be disallowed, suspended, or terminated.

## Staffing

*Substance Use Disorder (SUD):* Pursuant to the Section 1115 waiver, the state must establish residential treatment provider qualifications in licensure, policy or provider manuals, managed care contracts or credentialing, or other requirements or guidance that meet program standards in the ASAM Criteria or other nationally recognized, SUD-specific program standards regarding credentials of staff for residential treatment settings. The state must conduct an assessment of the availability of providers in the key levels of care throughout the state, or in the regions of the state participating under this demonstration, including those that offer MAT.

## Placement

*Substance Use Disorder (SUD):* Pursuant to the Section 1115 waiver, the state must establish a requirement that providers assess treatment needs based on SUD-specific, multidimensional assessment tools, such as the American Society of Addiction Medicine (ASAM) Criteria or other

assessment and placement tools that reflect evidence-based clinical treatment guidelines. The state also must establish a utilization management approach such that beneficiaries have access to SUD services at the appropriate level of care and that the interventions are appropriate for the diagnosis and level of care, including an independent process for reviewing placement in residential treatment settings. Pursuant to the waiver SUD implementation plan, KanCare, as part of the existing delivery system, used “a fidelity-based adaptation of the ASAM Patient Placement Criteria” as criteria for treatment. The state was to work with MCOs and providers to develop one standardized placement criteria that has fidelity to the ASAM placement criteria and uses a multi-dimensional assessment.

## **Treatment and Discharge Planning and Aftercare Services**

*Substance Use Disorder (SUD):* Pursuant to the Section 1115 SUD implementation plan, KanCare requires individual treatment plans. Standards were to be revised to incorporate ASAM standards.

## **Treatment Services**

*Mental Health (MH) and Substance Use Disorder (SUD):* Services must be medically necessary.

*Substance Use Disorder (SUD):* Under the Section 1115 waiver, beneficiaries will have access to high quality, evidence-based OUD and other SUD treatment services ranging from medically supervised withdrawal management to on-going chronic care for these conditions in cost-effective settings while also improving care coordination and care for comorbid physical and mental health conditions. Pursuant to the Section 1115 waiver, the state must establish requirements or guidance that meet program standards in the ASAM Criteria or other nationally recognized, SUD-specific program standards regarding the types of services and hours of clinical care for residential treatment settings. The state must establish a requirement that residential treatment providers offer MAT on-site or facilitate access to MAT off-site.

## **Care Coordination**

*Substance Use Disorder (SUD):* Under the Section 1115 waiver, beneficiaries will have improved care coordination and care for comorbid physical and mental health conditions. The state must ensure establishment and implementation of policies to ensure residential facilities link beneficiaries with community-based services and supports following stays in these facilities. Pursuant to the waiver SUD implementation plan, KDHE and KDADS were to implement a coordinated approach to increasing service coordination across the spectrum of care.

## Quality Assurance or Improvement

*Substance Use Disorder (SUD)*: Pursuant to the Section 1115 waiver, the state must establish a provider review process to ensure that residential treatment providers deliver care consistent with the specifications in the ASAM Criteria or other nationally recognized SUD program standards based on evidence-based clinical treatment guidelines.

## Special Populations

*Substance Use Disorder (SUD)*: Under the Section 1115 waiver, beneficiaries will have improved care for comorbid physical and mental health conditions.

## Location of Medicaid Requirements

Kansas Administrative Regulations Agency 30, Department for Children and Families; Article 5, Provider Participation, Scope of Services, and Reimbursements for the Medicaid (Medical Assistance) Program<sup>6</sup>; Kansas Administrative Regulations Agency 129, Department of Health and Environment--Division of Health Care Finance<sup>6</sup>; KanCare Section 1115 waiver<sup>7</sup>; SUD Implementation Plan<sup>8</sup>. Regulatory data collected December 5, 2019.

## Other Information Sources

Kaiser Family Foundation. State Options for Medicaid Coverage of Inpatient Behavioral Health Services. KFF: San Francisco. November 2019. <http://files.kff.org/attachment/Report-Brief-State-Options-for-Medicaid-Coverage-of-Inpatient-Behavioral-Health-Services>

This state summary is part of the report “**State Residential Treatment for Behavioral Health Conditions: Regulation and Policy**”. The full report and other state summaries are available at <https://aspe.hhs.gov/state-bh-residential-treatment>.

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<sup>6</sup> See [https://www.ksos.org/pubs/pubs\\_kar.aspx](https://www.ksos.org/pubs/pubs_kar.aspx).

<sup>7</sup> See <https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/ks/ks-kancare-ca.pdf>.

<sup>8</sup> See <https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/ks/KanCare/ks-kancare-cms-appvl-sud-implementation-plan-20190807.pdf>.