

## MARYLAND

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### Types of Facilities

*Mental Health (MH):* Maryland regulates Residential Crisis Services (RCS) for individuals with a primary MH diagnosis. These (1) provide short-term MH treatment and support services in a structured environment for individuals who require 24-hour supervision due to a psychiatric crisis; and (2) are designed to prevent a psychiatric inpatient admission, shorten the length of inpatient stay, effectively use general hospital emergency departments; and provide an alternative to psychiatric inpatient admission.

*Substance Use Disorder (SUD):* Maryland regulates all SUD residential treatment programs, including the following, which correspond to the relevant ASAM level of care:

- Level 3.1. Clinically Managed Low Intensity Treatment
- Level 3.3. A Clinically Managed Medium Intensity Treatment
- Level 3.5. A Clinically Managed High Intensity Residential Treatment
- Level 3.7. Medically-Monitored Intensive SUD Treatment
- Clinically Managed Residential Detoxification services are provided for patients whose intoxication or withdrawal signs and symptoms are sufficiently severe to require 24-hour structure and support and may be offered in suitably licensed Level 3.1, 3.3, 3.5 or 3.7 programs.
- Opioid Treatment Services may be offered in any suitably licensed residential levels.

*Unregulated Facilities:* Unregulated residential facilities could include one that is a pilot project or federal or state demonstration project exempted by the state, if they meet grant award and other conditions. We exclude from this summary regulated residential rehabilitation programs for individuals with a mental disorder, group homes for adults with mental illness, respite care homes, and therapeutic group homes, as well as recovery residences, as not requiring clinical services within the scope of this summary.

## Approach

The Maryland Department of Health (MDH), Behavioral Health Administration (BHA) regulates and licenses residential treatment providers in the state regardless of funding. According to state staff, this is governed by the subtitle 63 Community-Based Behavioral Health Programs and Services regulations and programs are no longer approved (MH) or certified (SUD) pursuant to subtitles 21 and 47. The identified requirements in this non-Medicaid portion of the summary, therefore, reflect the standards in subtitle 63 and additional input from state staff.

## Processes of Licensure or Certification and Accreditation

*Mental Health (MH and Substance Use Disorder (SUD):* Accreditation-based licensure by the BHA is required for operation of all residential treatment facilities.

- Organizations are required to receive accreditation from an MDH-approved national accreditation organization for each service they offer at each site at which it is offered. Accreditation forms the basis for an application to BHA for a license. The following accrediting organizations are approved by the MDH:
  - ACHC -- The Accreditation Commission for Health Care
  - CARF -- The Commission on Accreditation of Rehabilitation Facilities
  - COA -- The Council on Accreditation
  - TJC -- The Joint Commission
- According to state staff, only residential intensive Level 3.7 programs required a Certificate of Need.
- Licensure is dependent on accreditation, the duration of which varies by accrediting body. According to state staff, accreditation is generally initially advanced for a period of six months to a year based on a desk review and site visit in order to allow organizations to establish new programs. Once accreditation has been obtained, the organization formalizes an Agreement to Cooperate with the local designated Behavioral Health Authority (LBHA) in each jurisdiction in which it is providing services. This Agreement serves to provide authority for the LBHA to work with the organization, including working with the organization on Program Improvement Plans arising from audits. The organization then applies to BHA for a license which, when granted, will generally extend 3 months beyond the accreditation period. Towards the end of the initial license period, the accreditation organization visits the program to review service records. At this time, accreditation may be extended for up to 3 years. The organization submits a new license application, and again licensure may be granted for up to 3 months beyond the accreditation period.

## **Cause-Based Monitoring**

*Mental Health (MH) and Substance Use Disorder (SUD):* The BHA may conduct post-licensing inspections and validate inspections of accredited organizations when there are significant concerns about compliance with accreditation requirements or certain other matters. The MDH, BHA and its designees, and federal funding agents may make announced and unannounced visits to a program; and inspect and copy all records, including, but not limited to financial, treatment, and service records. Licenses may be denied, suspended, or revoked and the BHA may notify organizations of deficiencies or apply intermediate sanctions and required corrective action. Civil penalties also may apply. BHA's compliance units may arrange for audits of organizations by its own personnel, or those of its designees when issues are identified through data-mining, complaints, incidents or other causes.

*Mental Health (MH):* According to state staff, most compliance activities conducted on organizations are through the Local Behavioral Health Authority (LBHA) for each jurisdiction. The LBHA follow up on Program Improvement Plans identified through audit or otherwise, as well as complaints and incidents.

*Substance Use Disorder (SUD):* According to state staff, while LBHAs follow up as noted above under MH, the BHA compliance unit also performs routine visits semi-annually on Opioid Treatment Services and quarterly on certain SUD residential treatment services.

## **Access Requirements**

*Mental Health (MH) and Substance Use Disorder (SUD):* Wait-time requirements were not found. A program may not exclude or discriminate against an individual on the basis of the individual receiving opioid treatment services.

## **Staffing**

*Mental Health (MH):* RCSs must have staff on-site 24 hours per day, 7 days per week, whenever an individual is on-site receiving services.

*Substance Use Disorder (SUD):* The licensing regulations do not include requirements for staffing. Staff indicated that programs are bound by the requirements identified below for Medicaid services.

## Placement

*Mental Health (MH) and Substance Use Disorder (SUD):* According to state staff, MH and SUD programs accept individuals with a primary diagnosis of MH and SU respectively, but also serve individuals who have co-occurring diagnoses.

*Mental Health (MH):* RCSs provide services for individuals who require 24-hour supervision due to a psychiatric crisis.

*Substance Use Disorder (SUD):* The SUD residential treatment programs provide treatment to individuals who meet the corresponding ASAM patient placement criteria (Levels 3.1, 3.3, 3.5, 3.7).

## Treatment and Discharge Planning and Aftercare Services

*Mental Health (MH) and Substance Use Disorder (SUD):* Requirements related to treatment and discharge planning and provision of aftercare services for adult residential behavioral health treatment facilities were not found.

## Treatment Services

*Mental Health (MH):* RCSs Provide short-term mental health treatment and support services in a structured environment.

*Substance Use Disorder (SUD):* Services by the SUD residential facility types correspond to those required by the relevant ASAM level (3.1, 3.3, 3.5, 3.7), including hours per week of therapeutic services, and each may provide withdrawal management service and an opioid treatment service if the license so authorizes. Additional information is provided below related to Maryland's withdrawal management services.

- A withdrawal management service is one that monitors the decreasing amount of psychoactive substances in the body; manages the withdrawal symptoms; motivates the individual to participate in appropriate treatment programs for alcohol or other drug dependence; provides additional referrals as necessary; and at Level 3.7-WM, employs a physician, nurse practitioner, or physician assistant who: (1) Obtains a comprehensive medical history and physical examination of the patient at admission; and (2) Medically monitors each patient.

## **Patient Rights and Safety Standards**

*Mental Health (MH) and Substance Use Disorder (SUD):* All BHA licensed community-based behavioral health programs must comply with all applicable federal and state laws and regulations, including ones related to privacy and confidentiality. A licensed program must report all critical incidents to the BHA within 5 calendar days following the program receiving knowledge of the incident. A program may not exclude or discriminate against an individual on the basis of the individual receiving opioid treatment services.

## **Quality Assurance or Improvement**

*Mental Health (MH) and Substance Use Disorder (SUD):* Requirements related to quality assurance or improvement for adult residential behavioral health treatment facilities were not found.

## **Governance**

*Mental Health (MH) and Substance Use Disorder (SUD):* Requirements related to governance of adult residential behavioral health treatment facilities were not found.

## **Special Populations**

*Substance Use Disorder (SUD):* Requirements related to special populations in adult residential behavioral health treatment facilities were not found.

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

Community-Based Licensure Regulations Subtitle 63<sup>1</sup>. Regulatory data collected May 30, 2019.

## **Other Information Sources**

S. Gear, S. Diehl, L. Woolford (BHA); 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>1</sup> See [http://www.dsd.state.md.us/COMAR/subtitle\\_chapters/10\\_Chapters.aspx#Subtitle63](http://www.dsd.state.md.us/COMAR/subtitle_chapters/10_Chapters.aspx#Subtitle63).

# MARYLAND MEDICAID

*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.*

## Approach

The Maryland Department of Health (MDH) oversees the state Medicaid program. Maryland also has a Section 1115 waiver permitting Medicaid expenditures for otherwise covered services furnished to otherwise eligible individuals who are primarily receiving treatment and withdrawal management services for substance use disorder (SUD) during up to two non-consecutive stays of 30 days or less annually in facilities that meet the definition of an institution for mental disease (IMD). The services are delivered by the Administrative Services Organization (ASO) that operates the Maryland Public Behavioral Health System through the fee-for-service system. The state does not rely on the in lieu of provision for Medicaid coverage of IMD services but has historically relied on Disproportionate Share Hospital (DSH) payments.

## Types of Facilities

*Mental Health (MH):* Researchers did not locate evidence of Medicaid reimbursement for adult residential MH treatment services.

*Substance Use Disorder (SUD):* Pursuant to the Section 1115 waiver, residential SUD facilities in Maryland may be of any size and include:

- Level 3.1 -- Clinically Managed Low-intensity Residential Services
- Level 3.3 -- Clinically Managed Population-specific High-Intensity Residential Services
- Level 3.5 -- Clinically Managed High-Intensity Residential Services
- Level 3.7 -- Medically Monitored Intensive Inpatient Services (may be provided in a freestanding residential facility or other specified facilities)
- Level 3.7 WM -- Medically Monitored Inpatient Withdrawal Management

## Processes of Medicaid Enrollment

*Mental Health (MH) and Substance Use Disorder (SUD):* To become a Medicaid provider, providers must be licensed and legally authorized to practice or deliver services in the state in which the service is provided. Among other things, the provider must apply for participation in the Medicaid program, permit unannounced site inspections, have a provider agreement, and comply with all standards of practice and department policies. Providers may be suspended or removed from the program and other sanctions imposed.

*Substance Use Disorder (SUD):* Pursuant to the Section 1115 waiver, residential SUD services are provided in a MDH licensed residential facility that has been enrolled by MDH as a Medicaid provider and issued a certification by MDH as capable of delivering care consistent with the ASAM Criteria as a Level 3.1, 3.3, 3.5 and/or 3.7 program. Each residential treatment provider will be assessed to meet the provider and service specifications described in the ASO provider handbook consistent with the ASAM Criteria for the requisite level or sublevel of care prior to participating in the Maryland Medicaid program under the Section 1115 demonstration. Prior to enrolling a residential treatment provider in Medicaid and prior to service provision under this demonstration, MDH will conduct site visits and certify residential treatment providers by ASAM Level 3. The ASO will provide preliminary credentialing for ASAM Levels 3.1, 3.3, 3.5 and/or 3.7 contingent on the providers receiving certification from the state. The ASO will finalize its credentialing after the providers submit their site visit reports verifying they are ASAM Level 3.1, 3.3, 3.5 and/or 3.7 programs.

## Staffing

*Substance Use Disorder (SUD):* The Maryland Medicaid regulations require participating adult residential treatment facilities to maintain verification of licenses and credentials, including background checks, of all professionals employed by or under contract with the provider in their respective personnel files; maintain staffing within each ASAM level of care as described below; and increase staffing within each ASAM level of care at a ratio to correspond with the participant census to meet required ASAM level of service delivery for each patient.

- A residential, low-intensity level 3.1 provider has requirements specific to a part-time program director; a clinical director; a licensed or certified counselor; peer support staff; and at least one staff member on duty between 11 p.m. and 7 a.m.
- A residential, medium intensity level 3.3 provider and a residential, high intensity level 3.5 provider have requirements for, among other things, sufficient physician, physician assistant, or nurse practitioner services; at least one staff member on duty between 11 p.m. and 7 a.m.; a part-time facility director; and other staff including requirements for hours per week and credentials.

- A residential, intensive level 3.7 provider has requirements for, among other things, sufficient physician, physician assistant, or nurse practitioner services; at least two staff members on duty between 11 p.m. and 7 a.m.; a part-time facility director; and other staff including requirements for hours per week and credentials.
- A withdrawal management service level 3.7-WM provider has requirements for, among other things, a part-time facility director; and other staff including medical providers and requirements for hours per week and credentials.

## **Placement**

*Substance Use Disorder (SUD):* Pursuant to the Section 1115 waiver, residential services are provided to Maryland Medicaid recipients with an SUD diagnosis when determined to be medically necessary by the ASO utilization management staff and in accordance with an individualized treatment plan. Only two (2) 30-day residential stays will be covered in a one (1) year period. Extended lengths of stay can be provided if medically necessary using other identified funds. Providers will complete a preadmission assessment of the member's clinical needs and submit the clinical information to the ASO for prior authorization. Utilization management staff or a licensed physician employed by the ASO will document the use of the ASAM multidimensional assessment and matrices for matching severity with type and intensity of services. Each prior authorization review will assess service needs, coordination needs and ensure appropriate placement in the appropriate level of care based on the member's needs as demonstrated in the ASAM Criteria multidimensional assessment. The ASO must provide prior authorization for residential services within twenty-four (24) hours of the prior authorization request being submitted by the provider.

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

*Substance Use Disorder (SUD):* Under the Maryland Medicaid regulations governing adult residential SUD treatment, an individualized treatment plan and discharge plan must be developed and maintained.

## **Treatment Services**

*Substance Use Disorder (SUD):* The Maryland Medicaid regulations require participating adult residential treatment facilities to demonstrate competence in the ability to deliver a minimum of three evidence-based practice services. The program also must be in compliance with all ASAM requirements for each applicable level of care, including hours per week of therapeutic services and coordination of aftercare. Specific service requirements are identified for the following levels: 3.1, 3.3., 3.5, 3.7, and 3.7-WM.



The Maryland Section 1115 waiver includes medication-assisted treatment but does not incorporate it into residential treatment.

## Care Coordination

*Substance Use Disorder (SUD)*: All levels of service must coordinate aftercare services through: (a) Peer support; or (b) A licensed provider.

## Quality Assurance or Improvement

*Substance Use Disorder (SUD)*: Requirements for adult residential SUD facility quality assurance or improvement were not located in the Medicaid regulations or waiver.

## Special Populations

*Substance Use Disorder (SUD)*: No Medicaid requirements were located regarding special populations.

## Location of Medicaid Requirements

Maryland Medicaid General Provider Rules<sup>2</sup>; Medicaid Adult Residential SU Rules<sup>3</sup>; Maryland 1115 Waiver<sup>4</sup>. Regulatory data collected January 2020.

## 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>2</sup> See [http://www.dsd.state.md.us/comar/SubtitleSearch.aspx?search=10.09.36.\\*](http://www.dsd.state.md.us/comar/SubtitleSearch.aspx?search=10.09.36.*).

<sup>3</sup> See [http://www.dsd.state.md.us/comar/SubtitleSearch.aspx?search=10.09.06.\\*](http://www.dsd.state.md.us/comar/SubtitleSearch.aspx?search=10.09.06.*).

<sup>4</sup> See <https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/md/md-healthchoice-ca.pdf>.