

MASSACHUSETTS

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): Massachusetts regulates adult MH residential treatment facilities as part of the community mental health center (CMHC) system. Treatment includes but is not limited to rehabilitation, support, or supervision.

Substance Use Disorder (SUD): Massachusetts regulates adult SUD residential rehabilitation services, which are “organized substance abuse treatment and education services featuring a planned program of care in a 24-hour residential setting. Services are provided in permanent facilities where clients reside on a temporary basis.” There are four models within residential rehabilitation services:

- **Transitional Support Services:** A short-term Residential Rehabilitation program.
- **Social Model Recovery Homes:** A Residential Rehabilitation program that conforms to the ASAM criteria for Low Intensity Residential Services.
- **Recovery Homes:** A residential rehabilitation program that conforms to American Society of Addiction Medicine criteria for Medium-intensity Residential Services.
- **Therapeutic Communities:** A Residential Rehabilitation program that conforms to ASAM criteria for High-intensity Residential Services.

Unregulated Facilities: It is possible that there are MH residential treatment facilities that are not included in the identified regulations. We exclude Alcohol and Drug-free Housing because it does not include treatment within the scope of this summary.

Approach

The Massachusetts Department of Mental Health (DMH) regulates adult residential MH treatment facilities that are operated, licensed, or contracted for by the DMH as part of the CMHC system. The Massachusetts Department of Public Health (DPH) regulates adult residential SUD treatment facilities.

Processes of Licensure or Certification and Accreditation

Mental Health (MH): Licensure by the DMH is required for all providers under contract with the DMH for each residential site and for a provider of a private residential program for each residential site. A license is not required for residential sites licensed by another state agency.

- Accreditation is not required.
- An inspection is required at least annually.
- The state does not require a Certificate of Need.
- Licensure duration is two years.

Substance Use Disorder (SUD): All residential SUD treatment facilities require licensure by the DPH, unless the program is owned by the Federal Government, the Commonwealth, or any subdivision thereof, except that a department, agency or institution of the Commonwealth or subdivision thereof is subject to approval by the DPH.

- Accreditation is not required but licensees who are subject to accreditation by any state, federal or national organization must obtain and maintain their accreditation and provide documentation of the accreditation to the DPH.
- An inspection is required for licensure and renewal.
- The state does not require a Certificate of Need but the DPH will not approve an application for an initial or renewal license or grant approval unless there is need for the service
- Licensure duration is six months or two years.

Cause-Based Monitoring

Mental Health (MH): Staff of the DMH will inspect licensed facilities at least annually, if not more frequently as necessary. The inspection may be without notice if there is cause. Whenever the DMH finds that a service is not in compliance with any applicable law or regulation, other than in accordance with an approved waiver, the DMH shall, if it deems the deficiency remediable, issue a corrective action order. Licenses may be suspended or revoked.

Substance Use Disorder (SUD): The DPH staff may inspect licensed facilities at any time without prior notice, and if deficiencies are detected, issue corrective actions. Licenses may be suspended, denied, not renewed, restricted, limited, or revoked.

Access Requirements

Mental Health (MH): Wait-time requirements were not found. Facilities must comply with applicable state and federal laws regarding access for individuals with disabilities.

Substance Use Disorder (SUD): Wait-time requirements were not found. SUD residential facilities must comply with the Americans with Disabilities Act. Facility eligibility criteria must not include a category of automatic exclusion defined by a history of criminal conviction.

Staffing

Mental Health (MH): All CMHC facilities must develop and implement written policies and procedures that address personnel, including job descriptions and minimal staff qualifications, staff supervision, and training. The regulations establish qualifications and responsibilities for the facility director and other staff. The service must have adequate staffing to satisfy the requirements of the licensing and operational standards. Staffing patterns must be appropriate to meet the linguistic and cultural needs of persons within the service. All staff receive orientation and ongoing training, as well as supervision. All staff must be trained in evacuation procedures for impaired and partially impaired persons.

Substance Use Disorder (SUD): All SUD facilities must develop and implement written policies and procedures that address personnel matters. Ongoing training and supervision are required for all staff. Job descriptions shall specify that direct care staff have knowledge of and ability to promote recovery. In facilities for adults with their children, the licensee must ensure that all staff are trained to recognize child abuse and neglect and to report incidents of child abuse and neglect to the Department of Children and Families. The licensee must provide an adequate number of qualified personnel to fulfill the service objectives. Staffing requirements are in place for direct care, management, administrative, and clinical staff, including a Senior Clinician.

- Licensees providing Transitional Support Services must ensure that a registered nurse, nurse practitioner, physician assistant, or licensed practical nurse is available on site at least four hours each day and that supervision of nursing staff is overseen by a registered nurse.
- Facilities for adults with their children must include a Clinical Director who is a Senior Clinician, a Family Therapist who is a Senior Clinician, children's services staff, counselors to serve as Recovery Specialists, a minimum of one FTE staff member on site at all times.

- Facilities for 2nd offender DUI must establish a staffing pattern with sufficient personnel to oversee daily activities and to ensure safe operation of the program, which shall include, among others, a Senior Clinician or Clinician, staff qualified by education or experience responsible for the structure and delivery of physical education and recreation activities, qualified health care personnel.

Placement

Mental Health (MH): Providers must develop written policies and procedures which address enrollment, intake and discharge, including criteria for enrollment into and discharge from the service.

Substance Use Disorder (SUD): Providers must develop admission eligibility criteria and procedures. An initial assessment for each prospective client must include specific components including but not limited to an assessment of the client's psychological, social, health, economic, educational/ vocational status; criminal history; current legal problems; co-occurring disorders; trauma history; and history of compulsive behaviors such as gambling. When the initial assessments indicate a need for further evaluation, the program shall conduct or make referral arrangements for necessary testing, physical examination and/or consultation by qualified professionals. The initial assessment must be conducted by a qualified professional.

- Residential rehabilitation for adults: Prior to admission, the licensee must verify that the client is 18 years of age or older and that the residential rehabilitation services are appropriate for the client based upon a set of criteria included in the regulations. Assessment must be completed in the first week of admission.
- Facilities for adults with children: At the time of admission, the licensee shall determine that Family Residential Substance Abuse Treatment Services are appropriate based upon regulatory diagnostic and symptomatic criteria, and that the family is homeless and is eligible for specified emergency assistance; or the family has housing resources located in a community or social environment that is unsupportive of recovery or constitutes a risk to maintenance of abstinence. No intoxicated persons or persons with medical conditions requiring 24-hour a day nursing coverage may be admitted. Within 30 days of admission, the licensee must complete specific assessments and evaluations.
- Facilities for 2nd offender DUI: The licensee must admit clients who are referred by a Massachusetts court, subject to criteria related to level of care, exclusion criteria, and medical criteria.

Treatment and Discharge Planning and Aftercare Services

Mental Health (MH): CMHCs must have written policies and procedures which address development, implementation and review of individualized action plans. Providers must develop written policies and procedures which address discharge. No aftercare or follow-up planning requirements were identified for CMHCs.

Substance Use Disorder (SUD): Treatment/service planning requirements are required for SUD residential treatment facilities. The licensee must ensure that individual treatment plans are reviewed with the client and amended as necessary. When treatment continues for three months or more, treatment plans must be reviewed at least once every three months. Discharge planning beginning at admission is required. The licensee must establish written policies and procedures for follow-up client contact. Such policies describe circumstances under which a client may be contacted after discharge and require that client's permission for such contact be documented in the client's record.

- For social model recovery homes, the service plan must be developed within the first 30 days of residence.
- For programs for adults with their children, the licensee must develop an Individual Treatment Plan for each family member residing in the program. In addition to SUD, the treatment plan shall address MH, trauma, domestic violence, child welfare, parent-child relationships and family life. The licensee also must provide the following aftercare services: (1) Assistance to obtain housing, child-care, employment, continued health care and other social services that the family has received while in the program; (2) Follow-up services for up to 3 months following the family's discharge; and (3) Referral to another family residential program if the family is discharged before completion of treatment.
- For 2nd offender DUI residential programs, the licensee discharges residents upon completion of their sentence and must refer residents who continue on probation for additional SUD treatment. With the client's written consent, the licensee shall provide the outpatient provider with a summary of the client's completed assessment and diagnosis. If a resident completes the probation period at the same time as the residential program, the licensee shall provide referrals to ensure a continuum of care for the resident, including referrals for further SUD treatment, the provision of post discharge counseling, and other supportive services.

Treatment Services

Mental Health (MH): Treatment in a CMHC facility includes, but is not be limited to, rehabilitation, support or supervision.

Substance Use Disorder (SUD): All residential rehabilitation programs for adults must provide: (1) daily clinical services to improve residents' ability to structure and organize the tasks of daily living and recovery; and (2) advocacy and ombudsman services to support residents in obtaining needed resources and services and actively promote residents' interests.

- Transitional Support residential rehabilitation programs must provide: (1) four hours of nursing services available each day; (2) case management services; (3) transportation services available at least 12 hours per day, seven days per week; (4) health monitoring, education and crisis services; and (5) referral and follow-up for substance abuse treatment services upon discharge.
- Social Model residential rehabilitation programs must provide individual service plans to include planned program activities to stabilize and maintain the stability of the resident's SUD symptoms and to help the resident develop and apply recovery skills; and case management and support to promote successful involvement in regular, productive daily activity and, as indicated, successful reintegration into family and community living.
- Recovery Home residential rehabilitation services must provide: (1) planned daily clinical program activities to stabilize the resident's SUD symptoms and to help the resident develop and apply recovery skills; (2) counseling and clinical monitoring by qualified staff to promote successful involvement in regular, productive daily activity, and, as indicated, successful reintegration into family and community living; (3) a range of cognitive and motivational therapies on a group and individual basis; and (4) a daily schedule of services designed to develop and apply recovery skills.
- Therapeutic Community residential rehabilitation must provide: (1) daily clinical services to promote the residents' ability to develop and practice pro-social behaviors; (2) planned daily clinical program activities to stabilize and maintain stabilization of the resident's SUD symptoms and to help the resident develop and apply recovery skills; (3) counseling and clinical monitoring by qualified staff to promote successful involvement in regular, productive daily activity, such as work or school, and, as indicated, successful reintegration into family and community living; (4) a range of cognitive and motivational therapies on a group and individual basis; (5) motivational enhancement and engagement strategies appropriate to the resident's stage of readiness to change; (6) planned community reinforcement designed to foster pro-social values and group living skills.
- For programs for adults with families, the licensee must provide the following SUD services for adults and adolescents: (1) Monthly case review or consultation meetings between the licensee's staff and any Qualified Service Organizations providing services for the family; and (2) 24 hour a day crisis intervention services. The licensee must establish Qualified Service Organization Agreements with licensed MH providers to provide specific clinical and other services for adults and children, including but not limited to services for traumatic stress symptoms. The licensee must provide specific adult services: (1) Weekly, on-site parenting education and parenting skill building; and (2) Counseling and clinical

monitoring to promote successful involvement in regular, productive daily activity, and, as indicated, successful reintegration into family and community living. The licensee must provide transitional assistance and employment advocacy services to assist the family in applying for transitional assistance through the DTA. The licensee must provide specified services for children residing in the program.

- For 2nd offender DUI residential programs, the licensee must provide: (1) educational services; (2) MH services for co-occurring MH disorders; (3) group programming for families; (4) recreational programming; (5) exposure to support and self-help groups for adolescents; (6) opportunities for clients to participate in planning, organizing or managing non-clinical programming; (7) clinical, educational and support services designed specifically for females, separate from males, and for males, separate from females; (8) clinical, educational and support services designed to incorporate and address issues related to cultural and ethnic identity of clients; and (9) transportation services.

Patient Rights and Safety Standards

Mental Health (MH): CMHC licensees must ensure that “utmost care shall be taken to protect the legal and human rights of all persons who receive services.” These rights include, but are not limited to: The right to be free from unlawful discrimination; the right to religious freedom and practice without compulsion according to the preference of the person; the right to vote; the right to communicate; and the right to be represented by an attorney or advocate of the person’s own choice; the right to file complaints and have them responded to; and the right to informed consent. Individuals receiving services also have the right to be free from mistreatment. For community mental health facilities, restraints must not be used as punishment or for the convenience of the staff. Medication restraint, mechanical restraint, or seclusion may not be used. Physical restraint may only be used under specific circumstances and crisis prevention plans must be developed. Related requirements for staff training are in the regulations. All physical restraints are to be reported to the Human Rights Committee.

Substance Use Disorder (SUD): The licensee must always safeguard the legal and civil rights of each client during treatment and discharge from treatment. A sample of guaranteed clients rights include: freedom from physical and psychological abuse; freedom from strip searches and body cavity searches; treatment in a manner sensitive to individual needs and which promotes dignity and self-respect; and the right to contact the Department. In all residential programs for adults, the regulations also protect residents’ rights to communication. The licensee must establish written policy and procedures for the resolution of clients’ disagreement(s) or dispute(s) arising in relation to treatment or program requirements and ensure that clients are provided with a copy of the procedures. The policy and procedures must address specific components related to grievances. The licensee also must establish written policies and procedures related to management of disruptive behavior, including prohibition on

physical restraint, except in the case of a person who has been committed to treatment. Certain critical incidents must be reported to the Department.

Quality Assurance or Improvement

Mental Health (MH): Each CMHC provider must develop written policies and procedures pertaining to quality and utilization management. The provider must use data to monitor and improve quality and prevent and minimize the use of restraint.

Substance Use Disorder (SUD): Each licensee must adopt and maintain a written statement of purpose identifying service goals, objectives, and philosophy. The licensee must implement an evaluation plan that enables it to measure progress toward the achievement of its established goals and objectives. The evaluation plan must be prepared annually by the licensee and reviewed with the governing body. The plan must address methods for reviewing appropriateness of client care, utilization of service components, methods for achieving compliance with the federal and state disability laws, and other data and information necessary for analyzing and improving the efficiency and effectiveness of program services. The licensee must designate the individual(s) responsible for completing the evaluation plan and document the application of the evaluation findings to its efforts to improve program services.

Governance

Mental Health (MH): For CMHCs, the application for licensure must be accompanied by documentation regarding the legal status of the applicant and individuals with a financial interest in the applicant. Policies and procedures must be developed.

Substance Use Disorder (SUD): The licensee must have a governing body that is accountable for and has authority over the policies and activities of the service and which includes persons with expertise in management, finances and SUD treatment. The governing body must include persons in recovery from a SUD and representatives of the community served. Policies and procedures must be developed.

Special Populations

Mental Health (MH): No requirements related to services for special populations were found.

Substance Use Disorder (SUD):

- Licensees serving pregnant women must: (1) establish in writing clinically appropriate medical protocols for pregnant women; (2) designate a hospital for emergency obstetrical

and medical back-up; (3) provide for appropriate parent-child services; and (4) be available to serve women in all three trimesters of pregnancy.

- Licensees providing services to pregnant and post-partum clients and their infants shall establish Qualified Service Organization Agreements with early intervention programs to provide developmental assessments and services to infants.
- Licensees serving persons with co-occurring disorders must: (1) establish policies and procedures for referrals for specialized psychiatric/psychological care; and (2) establish Qualified Service Organization agreements providing for mental health interventions and coordinated care.
- Licensees serving persons 60 years of age or older must establish Qualified Service Organization agreements with local organizations providing services for the elderly.
- Licensees serving persons with disabilities must document the client's current functioning, ability to perform activities of daily living, and ability to comprehend program policies and procedures.

Location of Regulatory and Licensing Requirements

Department of Mental Health, Licensing and Operational Standards Community Services¹; DMH Service Planning²; Department of Public Health³. Regulatory requirements reviewed June 24, 2019.

Other Information Sources

B. Harter, J. Babich (DPH BSAS), D. Tringali (DMH); National Conference of State Legislatures CON Program Overview, <http://www.ncsl.org/research/health/con-certificate-of-need-state-laws.aspx>

¹ See <https://www.mass.gov/files/documents/2016/07/tr/reg-104cmr28.pdf>.

² See <https://www.mass.gov/files/documents/2018/07/03/104cmr29.pdf>.

³ See <https://www.mass.gov/files/documents/2017/09/11/105cmr164.pdf>.

MASSACHUSETTS 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 Massachusetts Executive Office of Health and Human Services (OHHS) oversees the state Medicaid program. The state historically has relied to some extent on the in lieu of provision but not the Disproportionate Share Hospital (DSH) payments to reimburse certain services in Institutions for Mental Diseases (IMDs).

Massachusetts does have a Section 1115 waiver that affects reimbursement of two categories of residential services. The state's waiver allows for coverage of: (1) behavioral health residential (including IMD and others) MH/SUD treatment services as *diversionary* behavioral health services to provide interventions and stabilization to persons experiencing mental health (MH) or substance use disorder (SUD) crises in order to divert from acute inpatient hospitalization or to stabilize after discharge; and (2) residential SUD treatment (including IMD and others) to enhance the care continuum. Eligibility for these services vary by type of Medicaid enrollment.

Types of Facilities

Mental Health (MH) and Substance Use Disorder (SUD): Massachusetts Medicaid permits enrollment of the following type of adult residential treatment provider as a diversionary service:

- Community Crisis Stabilization (CCS): Services provided as an alternative to hospitalization, including short-term treatment in structured, community-based therapeutic environments. CCS provides continuous 24-hour observation, supervision, intervention, and treatment for covered individuals who do not require inpatient services.

Substance Use Disorder (SUD): Massachusetts Medicaid permits enrollment of the following type of adult residential SUD treatment provider as a diversionary service:

- Acute Treatment Services for Substance Abuse: Residential medically monitored SUD treatment services that provide evaluation and withdrawal management.

- Clinical Support Services for Substance Abuse: Residential treatment services, which can be used independently or following Acute Treatment Services for SUD.

In addition to the services identified as diversionary, the Massachusetts Section 1115 waiver also allows coverage of the following services in 24-hour residential settings:

- Level 3.1 Clinically Managed Low-Intensity Residential Treatment Services: 24-hour Transitional Support Services (TSS)
- Level 3.1 Clinically Managed Low-Intensity Residential Treatment Services: 24-hour Residential Rehabilitation Services (RRS) and 24-hour community-based family SUD treatment services
- Level 3.3. Clinically Managed Population-Specific High Intensity Residential Services: Specialized 24-hour treatment services to meet more complex needs. Treats patients in a 24-hour setting where the effects of the substance use, other addictive disorder, or co-occurring disorder resulting in cognitive impairment on the individual's life are so significant and the resulting level of impairment so great that other levels of 24-hour or outpatient care are not feasible or effective.

Prior to the extension of the state Section 1115 waiver to cover the above services, Massachusetts Medicaid already covered the following for certain enrollees:

- Short-term withdrawal management services (ASAM Level 3.7)
- Short-term residential services (ASAM Level 3.5)

Processes of Medicaid Enrollment

Mental Health (MH) and Substance Use Disorder (SUD): To be eligible to participate in the Massachusetts Medicaid program as any provider type, a provider must, among other things, be fully licensed, certified, or registered as an active practitioner by the agency or board overseeing the specific provider type, and where the regulations define "specialist" credentials or require other credentials, providers must possess those credentials. Providers must cooperate with the agency during any application, revalidation of enrollment, or other review process, which may include, but not be limited to, permitting and facilitating site visits, which may be unannounced. Providers may have their eligibility suspended or terminated and other sanctions may be applied.

Staffing

Mental Health (MH) and Substance Use Disorder (SUD): Enrolled Medicaid facilities must have a “Managing Employee” who is a general manager, business manager, administrator, director, or other individual who exercises operational or managerial control over, or who directly or indirectly conducts the day-to-day operation of an institution, organization, or agency.

Substance Use Disorder (SUD):

- Acute Treatment Services for Substance Abuse: Detoxification services are delivered by nursing and counseling staff under a physician-approved protocol and physician-monitored procedures.
- Level 3.1 Clinically Managed Low-Intensity Residential Treatment Services: 24-hour Transitional Support Services (TSS). This requires nursing and clinical staff and appropriately trained professional and paraprofessional staff.
- Level 3.1 Clinically Managed Low-Intensity Residential Treatment Services: 24-hour Residential Rehabilitation Services (RRS) and 24-hour community-based family SUD treatment services: This requires clinical staff and appropriately trained professional and paraprofessional staff.

Placement

Mental Health (MH) and Substance Use Disorder (SUD): CCS is available to individuals experiencing MH or SUD crises who require interventions and stabilization but do not require inpatient services.

Substance Use Disorder (SUD): According to the Section 1115 waiver, Medicaid enrollees may receive treatment in a number of different settings, relying on a bio-psycho-social clinical assessment, based on the ASAM principles, to gain an understanding of addiction severity, cooccurring mental health issues and trauma, physical health issues, family and social supports, housing stability and other issues.

Treatment and Discharge Planning and Aftercare Services

Mental Health (MH) and Substance Use Disorder (SUD): No evidence of Medicaid-based treatment or discharge planning or aftercare service requirements for residential treatment facilities for adults was located.

Treatment Services

Mental Health (MH) and Substance Use Disorder (SUD): CCS includes short-term intervention and treatment in structured, community-based therapeutic environments and provides continuous 24-hour observation and supervision.

Substance Use Disorder (SUD):

- Acute Treatment Services for Substance Abuse: Detoxification services include: bio-psychosocial assessment; individual and group counseling; psychoeducational groups; and discharge planning. Pregnant women receive specialized services to ensure SUD treatment and obstetrical care. Covered Individuals with Co-occurring Disorders receive specialized services to ensure treatment for their co-occurring psychiatric conditions.
- Clinical Support Services for Substance Abuse: Includes intensive education and counseling regarding the nature of addiction and its consequences; outreach to families and significant others; and aftercare planning for individuals beginning to engage in recovery from addiction. Covered Individuals with Co-Occurring Disorders receive coordination of transportation and referrals to mental health providers to ensure treatment for their co-occurring psychiatric conditions. Pregnant women receive coordination of their obstetrical care.
- ASAM Level 3.1 Clinically Managed Low-Intensity Residential Treatment Services: 24-hour Transitional Support Services (TSS): Ensure safety for the individual, while providing active treatment and reassessment, including 4 hours of nursing services.
- ASAM Level 3.1 Clinically Managed Low-Intensity Residential Treatment Services: 24-hour Residential Rehabilitation Services (RRS) and 24-hour community-based family SUD treatment services: Ensures safety for the individual, while providing active treatment and reassessment. Residential Rehabilitation Services include day programming and individual and group services.
- ASAM Level 3.3. Clinically Managed Population-Specific High Intensity Residential Services: Specialized 24-hour treatment services to meet more complex needs. Includes day programming and individual and group services.

Although medication-assisted treatment is covered under Massachusetts Medicaid, neither the rules nor Section 1115 waiver reference its provision in residential settings.

Care Coordination

Mental Health (MH) and Substance Use Disorder (SUD): Medicaid regulations require behavioral health contractors to arrange for the care coordination of beneficiaries.

Quality Assurance or Improvement

Mental Health (MH) and Substance Use Disorder (SUD): No evidence of Medicaid-based quality assurance or improvement requirements for residential treatment facilities for adults was located.

Special Populations

Mental Health (MH) and Substance Use Disorder (SUD): The Section 1115 waiver addresses provision of co-occurring treatment and treatment for pregnant women.

Location of Medicaid Requirements

130 CMR: Division of Medical Assistance⁴; 130 CMR 450.000: Administrative and Billing Regulations; MassHealth Section 1115 waiver⁵. Regulatory data collected December 6, 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>.

⁴ See <https://www.mass.gov/doc/130-cmr-450-administrative-and-billing-regulations/download>.

⁵ See <https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/ma/ma-masshealth-ca.pdf>.