VIRGINIA

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Types of Facilities

Mental Health (MH): Virginia regulates:

- *Residential crisis stabilization services*, which: (i) provide short-term, intensive treatment to nonhospitalized individuals who require multidisciplinary treatment in order to stabilize acute psychiatric symptoms and prevent admission to a psychiatric inpatient unit; (ii) provide normative environments with a high assurance of safety and security for crisis intervention; and (iii) mobilize the resources of the community support system, family members, and others for ongoing rehabilitation and recovery.

- *Community gero-psychiatric residential services*, which is 24-hour care provided to individuals with mental illness, behavioral problems, and concomitant health problems who are usually age 65 or older in a setting that is less intensive than a psychiatric hospital but more intensive than a nursing home or group home.

Substance Use Disorder (SUD): Virginia regulates:

- *Medically managed withdrawal services*, which means detoxification services to eliminate or reduce the effects of alcohol or other drugs in the individual's body.

- *Medical detoxification*, which is a service provided in a hospital or other 24-hour care facility under the supervision of medical personnel using medication to systematically eliminate or reduce effects of alcohol or other drugs in the individual's body.

- *Substance abuse residential treatment for women with children service*, which is a 24-hour residential service providing an intensive and highly structured substance abuse service for women with children who live in the same facility.

Unregulated Facilities: There are no unregulated residential treatment facilities in Virginia. We exclude categories of residential services that are not residential treatment services, because they do not incorporate clinical services within the scope of this summary.

Approach

The Virginia Department of Behavioral Health and Developmental Services (DBHDS) regulates and licenses all residential treatment providers in the state.

Processes of Licensure or Certification and Accreditation

Mental Health (MH) and Substance Use Disorder (SUD): Licensure by the DBHDS is required for all residential treatment facilities. The focus of the application is primarily on finances and ability to meet regulatory standards.

- Accreditation is not required.
- An on-site review is required for licensure to demonstrate compliance with regulations.
- A Certificate of Need is required for intermediate care facilities, excluding some for individuals with intellectual disability. This explicitly includes intermediate care facilities established primarily for the medical, psychiatric or psychological treatment and rehabilitation of individuals with substance abuse.
- Full licensure duration is up to three years, with the length of the license at the discretion of the commissioner depending on level of compliance with all regulations. A conditional license may be issued to a new provider for up to six months, renewable for a total of 12 months. A provisional license may be issued for up to 6 months to a provider for a service that has demonstrated an inability to maintain compliance, has violations of human rights or licensing regulations that pose a threat to the health or safety of individuals receiving services, has multiple violations of human rights or licensing regulations, or has failed to comply with a previous corrective action plan.

Cause-Based Monitoring

Mental Health (MH) and Substance Use Disorder (SUD): The DBHDS may conduct unannounced onsite reviews of licensed providers and each service at any time and at least annually to determine compliance with the regulations. The annual unannounced onsite reviews are focused on preventing specific risks to individuals, including an evaluation of the physical facilities in which the services are provided. The department also may conduct announced and unannounced onsite reviews at any time as part of the investigations of complaints or incidents. If there is noncompliance with any applicable regulation during an initial or ongoing review, inspection, or investigation, the department shall issue a licensing report describing the noncompliance and requesting the provider to submit a corrective action plan. The provider must submit to the department and implement a written corrective action plan. The provider

must implement and monitor the approved corrective action plan and incorporate corrective actions in its activities improvement program.

Access Requirements

Mental Health (MH) and Substance Use Disorder (SUD): Wait-time requirements were not found. All residential services must ensure that the physical environment shall be accessible to individuals with physical and sensory disabilities, if applicable. There are additional physical access requirements applicable to Community Gero-Psychiatric Residential Services.

Staffing

Mental Health (MH) and Substance Use Disorder (SUD): All residential facilities must conduct background checks, maintain written job descriptions and personnel files, and documented performance evaluations. Staff must meet the minimum qualifications required in their written job descriptions. Orientation training is required that includes, among other topics, confidentiality, person-centeredness, infection-control, patient rights, and incident reporting. On-going training is required to be documented. Staffing must be such that there is always staff present trained in CPR and First Aid. There are supplemental requirements related to students and volunteers. All facilities must have a staffing plan that includes, among other things, plans for employee supervision and how the facility will be staffed to meet resident needs.

Mental Health (MH): Community gero-psychiatric residential services have requirements related to the program director, medical director, director of clinical services, and other personnel. Development of the ISP requires, at a minimum, participation of a registered nurse, a licensed psychologist, a licensed social worker, a therapist (recreational, occupational or physical therapist), a pharmacist, and a psychiatrist. Competencies are established for nursing staff.

Substance Use Disorder (SUD): Direct-care employees at a residential facility with medically managed withdrawal services must have training in management of withdrawal and first responder training. In detoxification service locations, at least two employees or contractors must be on duty at all times. If the location is within or contiguous to another service location, at least one employee or contractor shall be on duty at the location with trained backup employees or contractors immediately available. In other managed withdrawal settings, the number of staff on duty must be appropriate for the services offered and individuals served.

Placement

Mental Health (MH) and Substance Use Disorder (SUD): The provider shall admit only individuals whose service needs are consistent with the program's service description, for whom services are available, and for which staffing levels and types meet the needs of the individuals receiving services. Providers must implement policies and procedures for initial contacts and screening, admissions, and referral of individuals to other services and designate staff to perform these activities. An assessment must be initiated prior to or at admission to the service. With the participation of the individual and the individual's authorized representative, if applicable, the provider shall complete an initial assessment detailed enough to determine whether the individual qualifies for admission and to initiate an ISP for those individuals who are admitted to the service.

Mental Health (MH): An individual receiving community gero-psychiatric residential services shall have had a medical, psychiatric, and behavioral evaluation to determine that he/she cannot be appropriately cared for in a nursing home or other less intensive level of care but does not need inpatient care.

Substance Use Disorder (SUD): For medically managed withdrawal services, during the admission process, providers of managed withdrawal services must: (1) Identify individuals with a high-risk for medical complications or who may pose a danger to themselves or others; (2) Assess substances used and time of last use; (3) Determine time of last meal; (4) Administer a urine screen; (5) Analyze blood alcohol content or administer a breathalyzer; and (6) Record vital signs. No reference to use of ASAM levels of care was found in the licensure requirements. State staff indicate, however, that it is required by policy for all SUD services.

Treatment and Discharge Planning and Aftercare Services

Mental Health (MH) and Substance Use Disorder (SUD): All residential care services are required to develop and implement an Individualized Services Plan (ISP), which is a comprehensive and regularly updated written plan that describes the individual's needs, the measurable goals and objectives to address those needs, and strategies to reach the individual's goals. An initial ISP must be developed and implemented within 24 hours of admission to address immediate needs in the first 30 days. A comprehensive ISP must be developed no later than 30 days after admission. Discharge planning is required prior to the scheduled discharge date and should be consistent with discharge criteria identified in the ISP.

Treatment Services

Mental Health (MH) and Substance Use Disorder (SUD): The provider must develop, implement, review, and revise its descriptions of services offered according to the provider's

mission and make service descriptions available for public review. The provider must outline how each service offers a structured program of individualized interventions and care designed to meet the individuals' physical and emotional needs; provide protection, guidance and supervision; and meet the objectives of any required individualized services plan. The provider must prepare a written description of each service it offers.

Mental Health (MH): For community gero-psychiatric residential services, employees or contractors must regularly monitor individuals in all areas of the residence to ensure safety. Providers must provide MH, nursing and rehabilitative services; medical and psychiatric services; and pharmaceutical services for each individual as specified in the ISP. Providers must provide crisis stabilization services. Providers must implement written policies and procedures that support an active program of MH and behavioral management services directed toward assisting each individual to achieve outcomes consistent with the highest level of self-care, independence, and quality of life. Programming may be on-site or at another location in the community.

Substance Use Disorder (SUD): For medically managed withdrawal services, the provider shall describe the level of services and the medical management provided.

Patient Rights and Safety Standards

Mental Health (MH) and Substance Use Disorder (SUD): Virginia regulations include many acts that are prohibited, including but not limited to, abuse and deprivation of services or health care. Restraint and seclusion are regulated and must be reported to the department. Patients are entitled to know their rights and how to make a complaint. The department must be notified of all complaints as well as critical incidents.

Quality Assurance or Improvement

Mental Health (MH) and Substance Use Disorder (SUD): All residential care services must develop and implement a quality improvement plan sufficient to identify, monitor, and evaluate clinical and service quality and effectiveness on a systematic and ongoing basis. The program must: (i) include a quality improvement plan that is reviewed and updated at least annually; (ii) establish measurable goals and objectives; (iii) include and report on statewide performance measures, if applicable, as required by DBHDS; (iv) utilize standard quality improvement tools, including root cause analysis; (v) implement a process to regularly evaluate progress toward meeting established goals and objectives; and (vi) incorporate any corrective action plans. Input from individuals receiving services and their authorized representatives, if applicable, about services used and satisfaction level of participation in the direction of service planning shall be part of the provider's quality assurance system improvement plan. The

provider must implement improvements, when indicated. The provider must review medication errors at least quarterly as part of quality assurance.

Governance

Mental Health (MH) and Substance Use Disorder (SUD): The regulations include fiscal accountability standards. As part of licensure, the facility must provide information about the organization and the governing body.

Special Populations

Mental Health (MH) and Substance Use Disorder (SUD): ISPs must, where relevant, address treatment for co-occurring disorders which are defined in Virginia as the presence of more than one and often several of the following disorders that are identified independently of one another and are not simply a cluster of symptoms resulting from a single disorder: mental illness, a developmental disability, SUDs, or brain injury. For residential care services, the facility's service description for substance abuse treatment services must address the timely and appropriate treatment of pregnant women with substance use disorders.

Location of Regulatory and Licensing Requirements

Chapter 105 Rules and Regulations for Licensing Providers by the Department of Behavioral Health and Developmental Services[1], Human Rights Regulations[2]. Regulatory data collected May 22, 2019.

Other Information Sources

M. Steele (DBHDS); National Conference of State Legislatures CON Program Overview, http://www.ncsl.org/research/health/con-certificate-of-need-state-laws.aspx

[1] See http://dbhds.virginia.gov/assets/QMD/licensing/ch.105.full.wemergcompliance.9.01.18docx.pdf.

[2] See https://law.lis.virginia.gov/admincode/title12/agency35/chapter115/.

VIRGINIA MEDICAID

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Approach

The Virginia Department of Medical Assistance Services (DMAS) oversees the state Medicaid program. Virginia also has the Section 1115 ARTS demonstration 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) who are short-term residents in facilities that meet the definition of an institution for mental diseases (IMD), including residential treatment. Virginia uses the in lieu of provision for Medicaid coverage of IMD services and has historically relied on Disproportionate Share Hospital (DSH) payments.

Types of Facilities

Mental Health (MH): Residential MH treatment is not covered by Medicaid in Virginia excepting time-limited crisis stabilization, if the crisis stabilization services are provided in a community mental health setting that is not an IMD. This is not reimbursed if the primary diagnosis is a substance use disorder (SUD) or if the individual is an imminent danger to self or others. The goals of crisis stabilization programs are to avert hospitalization or rehospitalization, provide normative environments with a high assurance of safety and security for crisis intervention, stabilize individuals in psychiatric crisis, and mobilize the resources of the community support system and family members and others for on-going maintenance and rehabilitation.

Substance Use Disorder (SUD): The Section 1115 ARTS demonstration provides that any recipient receiving residential SUD services pursuant to the demonstration, regardless of the length of stay or the bed size of the facility, is a "short-term resident" of the residential facility in which they are receiving the services. Short-term residential treatment is defined as a statewide length of stay of thirty days. Facility types include the following:

- Level 3.1 Clinically Managed Low Intensity Residential Services: Supportive living environment with 24-hour staff that provides rehabilitation services to beneficiaries with an SUD diagnosis (5 or more hours of low-intensity treatment per week) when determined to be medically necessary by an ARTS Care Coordinator or a physician or medical director and in accordance with an individualized service plan.

- Level 3.3 Clinically Managed Population-Specific High Intensity Residential Services: Clinically managed therapeutic rehabilitative facility for adults with cognitive impairment including developmental delay.

- Level 3.5 Clinically Managed High Intensity Residential Services: Clinically managed therapeutic community or residential treatment facility providing high intensity services for adults or medium intensity services for adolescents.

- Level 3.7 Medically Monitored Intensive Inpatient Services: Medically monitored inpatient services in a freestanding residential facility or inpatient unit of an acute care hospital or psychiatric unit. Includes 24-hour clinical supervision.

- Withdrawal Management services shall be provided when medically necessary, among other things, as a component of the Substance Use Residential/Inpatient Services (ASAM Levels 3.3, 3.5, and 3.7).

Processes of Medicaid Enrollment

Mental Health (MH) and Substance Use Disorder (SUD): To enroll as a Medicaid provider in Virginia, health care providers must apply to enroll and complete a provider agreement. The provider must be authorized to practice under the laws of the state in which it is licensed.

Mental Health (MH): Providers of community-based crisis stabilization must be licensed by the DBHDS as providers of MH nonresidential crisis stabilization.

Substance Use Disorder (SUD): In addition to being licensed by the DBHDS, residential SUD treatment facilities must be issued an ASAM Level of Care certification for Levels 3.1, 3.3, 3.5, and/or 3.7. Specific processes were implemented to verify that ARTS providers deliver care consistent with the ASAM Criteria. Among other things, these self-attestation to DMAS; site visits by a DMAS-contracted vendor to certify residential treatment providers as ASAM Level 3.1, 3.3, 3.5 and/or 3.7 programs; and provision of information related to certification to the MCOs and the DMAS FFS contractor to become credentialed. Medicaid regulations now define service structure and provider requirements consistent with the ASAM Criteria. The contracts for the MCO and DMAS FFS contractor have been modified to reference these regulations and reflect the ASAM Criteria within provider credentialing and networking requirements. The ASAM certification process will transition to the DBHDS upon promulgation of licensing regulations to incorporate the ASAM Criteria into regulations.

Staffing

Mental Health (MH): Crisis stabilization services in a community residential setting may only be rendered by a specified licensed or certified individuals.

Substance Use Disorder (SUD): Under the state Section 1115 ARTS waiver, the following requirements apply to providers furnishing ARTS: (a) Professional staff must be licensed, registered, certified or recognized under Virginia scope of practice statutes. Professional staff shall provide services within their individual scope of practice and receive supervision required under their scope of practice laws. Licensed or Registered Practitioners of the Healing Arts include a list of disciplines where the practitioners are licensed or working under appropriate supervision. (b) Non-professional staff shall receive appropriate on-site orientation and training prior to performing assigned duties. Non-professional staff will be supervised by professional and/or administrative staff as required in Virginia state licensing authorities. (c) Professional and non-professional staff are required to have appropriate experience and any necessary training at the time of hiring as required in Virginia state licensing authorities. Requirements by facility type include, among others:

- Level 3.3 Clinically Managed Population-Specific High Intensity Residential Services: Staffed by credentialed addiction professionals, physicians/physician extenders, and credentialed mental health professionals.

- Level 3.5 Clinically Managed High Intensity Residential Services: Staffed by licensed/credentialed clinical staff, including addiction counselors, licensed clinical social workers, licensed professional counselors, physicians/physician extenders, and credentialed mental health professionals.

- Level 3.7 Medically Monitored Intensive Inpatient Services: Includes 24-hour clinical supervision including physicians, nurses, addiction counselors and behavioral health specialists.

Placement

Mental Health (MH): The state Medicaid regulations include the following placement requirements for an individual to receive crisis stabilization services in a community mental health setting: The primary diagnosis may not be an SUD and the individual may not present an imminent danger to self or others. This service shall be initiated following a face-to-face service-specific provider intake. The service-specific provider intake must document the need for crisis stabilization services. Individuals qualifying for this service must demonstrate a clinical necessity for the service arising from a condition due to an acute crisis of a psychiatric nature which puts the individual at risk of psychiatric hospitalization. Individuals must meet at least two of the following criteria at the time of admission to the service: (1) Experience difficulty in

establishing and maintaining normal interpersonal relationships to such a degree that the individual is at risk of psychiatric hospitalization, homelessness, or isolation from social supports; (2) Experience difficulty in activities of daily living such as maintaining personal hygiene, preparing food and maintaining adequate nutrition, or managing finances to such a degree that health or safety is jeopardized; (3) Exhibit such inappropriate behavior that immediate interventions documented by the mental health, social services, or judicial system are or have been necessary; or (4) Exhibit difficulty in cognitive ability such that the individual is unable to recognize personal danger or significantly inappropriate social behavior.

Substance Use Disorder (SUD): Under the state 1115 ARTS waiver, all Virginia Medicaid recipients referred to or seeking ARTS Levels of Care 2.0 through 4.0 must receive multidimensional assessments, level of care and length of stay recommendations based upon the ASAM Criteria.

Rehabilitation services are provided to recipients with an SUD diagnosis who are short-term residents in a Level 3 setting, when determined to be medically necessary by an ARTS Care Coordinator, physician or medical director employed by the MCO or DMAS FFS contractor and in accordance with an individualized service plan. ARTS Care Coordinators, physicians or medical directors will perform independent assessments to determine level of care and length of stay recommendations based upon the ASAM Criteria multidimensional assessment criteria and matrices to match severity and level of function with type and intensity of service for adults. ARTS Care Coordinators, physicians or medical directors will document the use of the ASAM multidimensional assessment and matrices for matching severity with type and intensity of services in a uniform service review request form.

Withdrawal management services are provided to recipients with an SUD diagnosis when determined to be medically necessary by an ARTS Care Coordinator, physician, or medical director employed by the MCO or DMAS FFS contractor and in accordance with an individualized service plan.

Treatment and Discharge Planning and Aftercare Services

Mental Health (MH): Treatment in a community residential setting for psychiatric crisis stabilization must include an Individual Service Plan (ISP), to be developed or revised within three calendar days of admission to this service.

Substance Use Disorder (SUD): State Medicaid regulations require that ISPs and treatment plans must be developed upon admission to all Level 3 facilities. A comprehensive ISP must be developed within 30 days of initiation of services. It must be reviewed at least every 90 days and modified as needed.

Under the Section 1115 waiver, all ARTS providers are required to engage in discharge planning.

Treatment Services

Mental Health (MH): A psychiatric crisis stabilization program in a residential setting must provide, as appropriate, psychiatric assessment including medication evaluation, treatment planning, symptom and behavior management, and individual and group counseling.

Substance Use Disorder (SUD): Pursuant to the Section 1115 ARTS waiver, components of residential services include: (a) Physician consultation and emergency services available twenty-four (24) hours a day, seven (7) days per week. (b) Direct affiliations or referral sources to lower levels of care such as intensive outpatient services, vocational resources, literacy training, and adult education. (c) Ability to arrange for medically necessary procedures including laboratory and toxicology tests which are appropriate to the severity and urgency of individual's condition. (d) Ability to arrange for pharmacotherapy for psychiatric or anti-addiction medications. (e) Direct affiliation with (or close coordination through referral to) more and less intensive levels of care and other services such as sheltered workshops, literacy training, and adult education.

Therapies must include: (a) Clinically-directed treatment to facilitate recovery skills, relapse prevention, and emotional coping strategies. Services shall promote personal responsibility and reintegration of the individual into the network systems of work, education, and family life; (b) Addiction pharmacotherapy and drug screening; (c) Motivational enhancement and engagement strategies; (d) Counseling and clinical monitoring; (e) Withdrawal management and related treatment designed to alleviate acute emotional, behavioral, cognitive, or biomedical distress resulting from, or occurring with, an individual's use of alcohol and/or other drugs; (f) Regular monitoring of the individual's medication adherence; (g) Recovery support services; (h) Services involving the individual's family and significant others, as appropriate to advance the individual's treatment goals and objectives identified in the ISP (the services will be for the direct benefit of the beneficiary, will not be aimed at addressing treatment needs of individuals other than the beneficiary, and the beneficiary will be present except when it is clinically appropriate for the beneficiary to be absent in order to advance the beneficiary's treatment goals); and, (i) Education on benefits of medication assisted treatment and referral to treatment as necessary.

Culturally Competent Services: The MCOs and the DMAS FFS contractor will ensure that providers deliver services in a manner that demonstrates cultural and linguistic competency. Recipients will be able to select programs and providers within those programs that meet their needs for self-determination, recovery, community integration and cultural competency. Translation services must be available for recipients as needed.

Care Coordination

Mental Health (MH): The provision of psychiatric crisis stabilization services in a non-IMD residential community setting shall be registered with the DMAS within one business day of the completion of the service-specific provider intake to avoid duplication of services and to ensure informed care coordination. The goals of crisis stabilization programs include mobilizing the resources of the community support system and family members and others for on-going maintenance and rehabilitation.

Substance Use Disorder (SUD): Pursuant to the Section 1115 ARTS waiver, providers must have procedures for linkage/integration for recipients requiring MAT. All providers are required to engage in discharge planning, including coordination with the provider at the next level of care, to ensure the new provider is aware of the progress from the prior level of care.

Each MCO and the DMAS FFS contractor also must implement structured care coordination plans designed to assess the whole person, including physical health, mental health, and substance use, and achieve seamless transitions of care, including transitions between ARTS providers, transitions between delivery systems (i.e., FFS and managed care), and transitions between systems of care (i.e. physical and behavioral).

Quality Assurance or Improvement

Mental Health (MH): State Medicaid regulations require that, for community mental health service providers, including those providing crisis stabilization in a residential community setting, utilization reviews must be conducted, at a minimum annually for each enrolled provider, by the Department of Medical Assistance Services (DMAS) or its contractor. During each review, an appropriate sample of the provider's total Medicaid population will be selected for review. An expanded review shall be conducted if an appropriate number of exceptions or problems are identified. The review by DMAS or its contractor shall include the following items: (1) Medical or clinical necessity of the delivered service; (2) The admission to service and level of care was appropriate; (3) The services were provided by appropriately qualified individuals as defined in the regulations; and (4) Delivered services as documented are consistent with recipients' Individual Service Plans, invoices submitted, and specified service limitations.

Substance Use Disorder (SUD): The Section 1115 ARTS waiver imposes quality assurance improvement requirements on each MCO and the DMAS FFS contractor, to use, and expand as necessary, their existing quality improvement infrastructures, quality improvement processes and performance measurement data systems to ensure continuous quality improvement of ARTS.

State Medicaid regulations require utilization reviews of providers of SUD treatment services to be conducted by DMAS or its designated contractor. Service authorizations are required for all ASAM Level 3 facilities.

Special Populations

Mental Health (MH): Specific requirements for services for special populations were not located in the state Medicaid regulations applicable to crisis stabilization.

Substance Use Disorder (SUD): Pursuant to the Section 1115 ARTs waiver, the MCOs and the DMAS FFS contractor are encouraged to develop care management and coordination structures to manage pregnant and post-partum populations with histories of or current SUD, focusing on planning strategies to facilitate a recovery environment addressing improvements in maternal and child health, positive birth outcomes and addiction and recovery treatment approaches.

Location of Medicaid Requirements

Virginia Medicaid Rules and Regulations[3]; Virginia 1115 Waiver[4]. Regulatory data collected November 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.

[3] See https://law.lis.virginia.gov/admincode/title12/agency30/.

[4] See https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/va/va-gov-access-plan-gap-ca.pdf.