

PROVIDER COMPLIANCE ALERT

QUARTERLY COMPLIANCE REMINDER # 1

October 4, 2023

Target Audience: All Providers submitting claims in the PBHS

This alert is the first in a series of alerts designed to help providers with their ongoing efforts to maintain adherence State and federal compliance requirements. The alert identifies common issues that are being identified by Optum and BHA audits that can result in funding retractions and/or licensing action. **Please make sure that this alert is publicized to all of your relevant clinical staff.**

The Health Insurance Portability and Accountability Act (HIPAA) requires that all providers to have an identified HIPAA security officer and to have a corporate compliance program which ensures compliance with statutory and regulatory requirements. Compliance officers should review their own programs to determine whether or not their programs are experiencing the issues listed below.

Issues identified in all types of behavioral health service programs:

- Failure to document services accurately, as required by regulation, particularly with reference to **date of service with service start and end times; reason for visit; description of the service provided, including progress notes, and legible signature/title of the person who provided the service.** See [COMAR 10.09.59.03](#).
- Failure to obtain documented informed consent (signature) from the participant. (Documentation of verbal consent is not sufficient for billing)
- Refusal to allow Maryland Department of Health designated auditors to examine records, or failure to provide records on request. Any provider participating in the PBHS is subject to audit at any time, with or without notice. See [COMAR 10.09.36.03](#). Failure to allow audits may result in removal from the PBHS, and/or loss of licensure.
- Independent practitioners in private/group practice, who allow non-licensed students/interns, provisionally licensed (LG/LM), and/or other fully licensed individuals to provide services and bill Medicaid for those services under their Medicaid provider number. Documentation must be completed by the person who provided the service, and nobody is permitted to submit claims under their NPI on behalf of another provider.
- Providers who use a check-list in lieu of actual notes, such as are found in some EHR's. The notes are often not individualized to the services offered to the person served and their progress, as required, and become duplicative.

Issues identified in audits of substance use treatment (SUD) treatment programs:

- SUD IOPs billing H0004s for individual sessions. This service is included in the H0015 service code, and H0004 should not be billed by SUD IOP. See [COMAR 10.09.80.06B\(5\)](#).
- SUD programs employing CAC-ADs (who are approved supervisors) that are not supervised themselves. The chain of supervision must ultimately end in a licensed supervisor who is approved by the Board of Professional Counselors as an addictions supervisor.
- SUD programs having interns or non-credentialed/no-ADT status staff provide services.
- SUD IOP and PHP programs which make housing conditional on attendance at the treatment program, and which restrict housing to those who are in the treatment program. Offering housing as an incentive to participate in PBHS treatment services is illegal. Providers are in many cases not adhering to applicable landlord tenant laws.

Issues identified in audits of mental health (MH) treatment programs:

- OMHCs not maintaining adequate documentation for graduate-level clinicians (i.e., formal supervisory agreements and documentation of supervision).
- PRPs not adhering to Rehabilitation Specialist staffing requirements (i.e., employing 2+ Rehab Specialists, attempting to combine their weekly hours to meet the requirement of one RS).

Issues identified in E&M Notes:

- Some Psychiatrists and CRNP-PMH are billing 99214 and 99215 E&M codes routinely and not based on complexities of the service provided in the individual case. These services should only be billed when justified by the coding formula. Most psychiatric services normally fall within the 99212-99213 range in proper practice. Outliers are subject to increased levels of audit.