

## PENNSYLVANIA

*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):* Pennsylvania regulates Long-Term Structured Residences (LTSRs) which are defined as a highly structured therapeutic residential mental health treatment facility designed to serve persons 18 years of age or older who are eligible for hospitalization but who can receive adequate care in an LTSR.

*Substance Use Disorder (SUD):* In addition to hospitals, Pennsylvania regulates two categories of SUD treatment facilities: (1) Health Care Facilities; and (2) Freestanding Treatment Facilities, both of which can provide residential and nonresidential levels of care, including: Inpatient Nonhospital Residential Treatment and Rehabilitation and Inpatient Nonhospital Short-Term Detoxification.

- A Health Care Facility is “a general, tuberculosis, chronic disease or other type of hospital --but not hospitals caring exclusively for the mentally ill--a skilled nursing facility, home health care agency, intermediate care facility, ambulatory surgical facility or birth center--regardless of whether the health care facility is created for profit, nonprofit, or by an agency of the Commonwealth or local government.”
- Pennsylvania defines Freestanding Treatment Facilities as “any setting in which drug and alcohol treatment takes place that is **not** located in a health care facility.”
- Residential Facilities may exist within either type of facility (freestanding or health care facility) and the standards for Residential Facilities define them as “an inpatient, nonhospital facility or inpatient freestanding psychiatric hospital that provides sleeping accommodations and provides one or more of the following activities: residential treatment and rehabilitation services, transitional living services or short-term detoxification services, 24 hours a day.”

*Unregulated Facilities:* There are no unregulated residential treatment facilities in Pennsylvania. We do not include transitional living facilities or community residential rehabilitation for the mentally ill services because they do not include clinical treatment within the scope of this summary. We also exclude inpatient hospitals even though the Commonwealth considers them to be residential as the scope of these summaries do not extend to inpatient, hospital treatment.

## Approach

*Mental Health (MH):* The Pennsylvania Department of Human Services (DHS) regulates and licenses residential MH treatment providers in the state.

*Substance Use Disorder (SUD):* The Pennsylvania Department of Drug and Alcohol Programs (DDAP) regulates and licenses two categories of adult residential SUD treatment providers in the state, regardless of funding. The categories are: (1) Health Care Facilities; and (2) Freestanding Treatment Facilities, both of which can provide residential and nonresidential levels of care, including: Inpatient Nonhospital Residential Treatment and Rehabilitation and Inpatient Nonhospital Short-Term Detoxification. The Commonwealth also considers inpatient hospitals to be residential, although they are excluded from this summary.

## Processes of Licensure or Certification and Accreditation

*Mental Health (MH):* Licensure by the DHS is required for operation of all LTSRs. To obtain a license, an application for a certificate of compliance must be approved by the DHS.

- Accreditation is not required.
- An announced inspection is required at least annually and focuses on compliance with licensure and certification requirements.
- A Certificate of Need is not required.
- Licensure duration is one year.

*Substance Use Disorder (SUD):* All adult residential SUD facilities are required by the DDAP either to hold a license as a Freestanding Treatment Facility or, if they are part of a Health Care Facility, both a certificate of compliance and a license, the requirements of which are identical.

- Accreditation is not required.
- An inspection is required for certification and renewal. The focus of the inspection is primarily on compliance with regulatory.
- A Certificate of Need is not required.
- Certification and licensure are each valid for one year.

## **Cause-Based Monitoring**

*Mental Health (MH):* Announced or unannounced inspections may occur, including complaint inspections. Deficiencies require a plan of correction. Failure of an LTSR to comply with the standards of the DHS may result in sanctions, including restriction, denial, nonrenewal, or revocation. The provider also must permit community legal services, advocacy groups, mental health consumer and family organizations and authorized federal, state or local government agents reasonable access to the facility and its residents. This specifically includes employees and legal counsel of Pennsylvania Protection and Advocacy.

*Substance Use Disorder (SUD):* Freestanding Treatment Facilities may be issued a provisional license, licenses may be refused, restricted, or revoked, and corrective action may be required. Certificates of compliance may be rejected, restricted, or revoked, and corrective action may be required. The DDAP has an on-going right to enter and inspect.

## **Access Requirements**

*Mental Health (MH) and Substance Use Disorder (SUD):* Access standards regarding wait times were not identified.

## **Staffing**

*Mental Health (MH):* LTSR providers have requirements related to, among other things, staff education, experience, and training; sufficient staffing levels; and specific staffing ratios. Additional requirements relate to psychiatric availability; the credentials, education, experience, and responsibilities of the program director and mental health professionals, as well as minimum direct-care staffing and supervision requirements. Regulations include standards for the composition and responsibilities of the interdisciplinary treatment team. Requirements are in place for training related to safety, orientation, in-service and out-service training, with minimum hours per staff type. The orientation program must include the following topics, among others: program goals and objectives, policies and procedures, infection control, confidentiality, safety, rights, crisis prevention and management and reporting, and abuse prevention and reporting. Additional orientation is required for direct care staff.

*Substance Use Disorder (SUD):* Freestanding Treatment Facilities and Health Care Facilities must develop a written policy to address relapse of recovering clinical personnel and the discipline of nonrecovering employees who abuse alcohol and other drugs. The project shall develop a policy that addresses the recruitment and hiring of staff persons who are appropriate to the population to be served. Every effort shall be made to hire staff persons representative

of that population. The regulations include requirements regarding the project director and facility director, including education and experiential requirements. Additionally, if the facility does not have a clinical supervisor on staff, direction is provided as to how clinical responsibilities should be addressed. Requirements for clinical providers, supervisors, and direct care staff are included, as are ratios. The project director must develop a comprehensive staff development program for agency personnel and each employee must have an individual training plan. Each employee must complete specified minimum training hours. Some training areas are mandated, and others are suggested but subject selection is based upon needs delineated in the individual's training plan. General training requirements, requirements for project and facility directors, clinical supervisors, counselors, and counselor assistants are provided.

## **Placement**

*Mental Health (MH):* To be eligible for admission to an LTSR, a prospective resident must meet certain requirements including but not limited to having a physician's certification that the applicant does not require hospitalization, nursing facility care or a level of care more restrictive than an LTSR, written within 30 days before admission; and evidence a severe psychosocial disability as a result of serious mental illness that indicates a less restrictive level of care is inappropriate. A person will not be admitted without an assessment and admission authorization that meets standards. Upon admission, the interdisciplinary treatment team must complete an initial assessment of the resident's mental, physical and social needs.

*Substance Use Disorder (SUD):* Freestanding Treatment Facilities and Health Care Facilities, including Short-Term Detoxification programs, must develop a written plan for intake and admission that includes, among other things, criteria for admission and requirements for completion of treatment.

- Short-Term Detoxification programs must ensure intake procedures other than initial medical care are performed at a time when the immediate physiological effects of drug and alcohol abuse have subsided. Intake procedures must include documentation of specific topics.

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

*Mental Health (MH):* The interdisciplinary treatment team must develop an initial treatment plan, within 72 hours, based on the initial assessment, and a comprehensive treatment plan within 10 days of admission. The interdisciplinary treatment team shall review treatment plans at least every 30 days or more frequently as the resident's condition changes. The interdisciplinary treatment team shall maintain a record of each reexamination and review to include, among other things, criteria for discharge and recommendation for discharge if these

criteria have been met. Criteria are established for decisions which determine the duration of stay.

*Substance Use Disorder (SUD):* Freestanding Treatment Facilities and Health Care Facilities must have policies for development of a preliminary and on-going treatment and rehabilitation plan. Treatment and rehabilitation plans must be reviewed and updated at least every 30 days. For those projects whose client treatment regime is less than 30 days, the treatment and rehabilitation plan, review and update must occur at least every 15 days. The project must develop a written client aftercare and follow-up policy.

- Short-Term Detoxification programs must have a drug and alcohol support plan; aftercare plans, if applicable; and follow-up information.

## **Treatment Services**

*Mental Health (MH):* An LTRS provides a 24-hour therapeutic environment which employs active psychiatric treatment, and psychosocial rehabilitation skills training in a structured residential milieu. Services must be client centered. The provider must, directly or through arrangement, provide services needed by the residents. To provide services that are not available at the LTRS, the provider shall: (1) Collaborate with the county administrator's office case management services, and other programs to provide services as identified by the treatment plan and to ensure continuity of care. (2) Ensure that transportation is available for residents who must be transported for services, recreation and other activities. Some services may be contracted by the provider to outside sources and the provider has obligations regarding the provision of those services. At least one-half hour of psychiatric time per resident per week is required.

*Substance Use Disorder (SUD):* Freestanding Treatment Facilities and Health Care Facilities, including Short-Term Detoxification programs, must assure that counseling services are provided according to the individual treatment and rehabilitation plan. Counseling shall be provided to a client on a regular and scheduled basis. The project must assist the client in obtaining the following supportive services when necessary: (1) Medical/dental; (2) Psychiatric; (3) Legal; (4) Economic; (5) Educational; (6) Vocational; and (7) Recreational/social.

## **Patient Rights and Safety Standards**

*Mental Health (MH):* Within 24 hours of admission, the resident must receive a written statement of rights on grievance procedures and access to advocates. Other rights include but are not limited to confidentiality, dignity, communication, to be free of abuse, and treatment in the least restrictive setting, as well as reporting and investigation standards. In an LTRS, the use of seclusion is prohibited, as is restraint for behavior management, with other uses of restraints

(i.e., to control involuntary movement due to organic causes or conditions) regulated. Additional, more general regulations provide additional standards, including requiring a restraint plan.

*Substance Use Disorder (SUD):* Clients of Freestanding Treatment Facilities and Health Care Facilities have civil rights, the right to nondiscrimination, confidentiality, and other rights. The facility must have policies to respond to “unusual incidents” that include documentation, review and identification of cause, implementation of a corrective action plan, monitoring, and reporting.

## **Quality Assurance or Improvement**

*Mental Health (MH):* The provider must have a written quality improvement (QI) plan and program that the program director reviews for the quality and appropriateness of services provided and monitors for compliance with standards of treatment and care. The plan shall, among other things: (1) Specify who has responsibility for QI activities, to whom findings are reported, the frequency of reviews, what critical indicators are to be evaluated and acceptable levels for the critical indicators. (2) Have indicators of quality care that include at least the following: (i) The level of resident satisfaction and program input. (ii) The level of family satisfaction and program input. (iii) Appropriateness, completeness, timeliness and implementation of the treatment plans. (iv) Case and trend review of crisis events and unusual situations. (v) Direct-care staff performance. (vi) Clinical case or peer reviews, quarterly or more often as indicated. (vii) Medications management, including errors and adverse effects. (viii) Appropriate documentation.

*Substance Use Disorder (SUD):* Freestanding Treatment Facilities and Health Care Facilities must have a data collection and recordkeeping system that allows for the efficient retrieval of data needed to measure the project’s performance in relationship to its stated goals and objectives.

## **Governance**

*Mental Health (MH):* An LTSR must be operated by either a nonprofit or a for-profit corporation. The corporation’s governing body has legal responsibility for the operation of the facility. The governing body shall, among other things, establish required policies, select a qualified program director, conduct an annual review and evaluation, administer funds and develop budgets, and assure compliance with statutes and regulations.

*Substance Use Disorder (SUD):* Freestanding Treatment Facilities and Health Care Facilities must have a governing body with legal responsibility for the project. Duties include but are not limited to designating the project director, identifying purpose and philosophy, and

documenting organizational structure. If publicly funded, the body must provide an annual report. They must adopt a written plan for coordination of treatment and rehabilitation services and written personnel policies, both of which must include specified components.

## Special Populations

*Mental Health (MH)*: LTRSs are specifically designed for individuals with serious mental illness who cannot be served in a less restrictive setting.

*Substance Use Disorder (SUD)*: Requirements specific to special populations were not located for adult residential SUD treatment.

## Location of Regulatory and Licensing Requirements

Department of Human Services LTRS regulations<sup>1</sup>; Department of Human Services Licensure/Certification regulations<sup>2</sup>; Regulations Regarding Abuse of Patients/Residents<sup>3</sup>; Regulations Regarding Restraint/Seclusion<sup>4</sup>; Statute Requiring Licensure<sup>5</sup>; Department of Drug and Alcohol Programs regulations<sup>6</sup>. Regulatory data collected August 31, 2019.

## Other Information Sources

T. Pride (PA OMHSAS); E. DiDomenico (PA DDAP); National Conference of State Legislatures CON Program Overview, <http://www.ncsl.org/research/health/con-certificate-of-need-state-laws.aspx>

---

<sup>1</sup> See <https://www.pacode.com/secure/data/055/chapter5320/chap5320toc.html#5320.12>.

<sup>2</sup> See <https://www.pacode.com/secure/data/055/chapter20/chap20toc.html>.

<sup>3</sup> See <https://www.pacode.com/secure/data/055/chapter14/chap14toc.html>.

<sup>4</sup> See <https://www.pacode.com/secure/data/055/chapter13/chap13toc.html>.

<sup>5</sup> See <https://codes.findlaw.com/pa/title-62-ps-poor-persons-and-public-welfare/pa-st-sect-62-1001.html>.

<sup>6</sup> See [https://www.ddap.pa.gov/Licensing/Pages/Licensing\\_Drug\\_and\\_Alcohol\\_Facilities.aspx](https://www.ddap.pa.gov/Licensing/Pages/Licensing_Drug_and_Alcohol_Facilities.aspx).

# PENNSYLVANIA 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 Pennsylvania Department of Human Services (DHS) oversees the state Medicaid program. Pennsylvania also has a Section 1115 waiver whereby SUD treatment services may be provided to Medicaid enrollees with a SUD who are short-term residents in residential facilities that meet the definition of an Institution for Mental Diseases (IMD) and who receive services via managed care. The waiver excludes FFP for opioid use disorder (OUD)/SUD services in IMDs for beneficiaries who receive services via fee-for-service. Pennsylvania does not rely on the in lieu of provision for coverage of some services in IMDs but historically has relied on Disproportionate Share Hospital (DSH) Payments.

## Types of Facilities

*Mental Health (MH):* Researchers found no evidence of Medicaid reimbursement for adult residential MH treatment services.

*Substance Use Disorder (SUD):* The Pennsylvania Section 1115 waiver permits reimbursements for the following residential settings:

- Level 3.1 Halfway Houses
- Level 3.5 or 3.7 Medically Monitored Short Term Residential
- Level 3.5 Medically Monitored Long Term Residential
- Level 3.7-WM Medically Monitored Inpatient Detoxification

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

## **Processes of Medicaid Enrollment**

*Mental Health (MH) and Substance Use Disorder (SUD):* Providers must, among other things, apply to enroll as a Medicaid provider in Pennsylvania, sign a provider agreement, and be licensed and registered or certified or both by the appropriate state agency.

*Substance Use Disorder (SUD):* Pursuant to the Section 1115 waiver and state Medicaid regulations, residential SUD treatment services are provided in an Pennsylvania Department of Drug and Alcohol Programs (DDAP)-licensed facility that has been enrolled as a Medicaid provider and assessed by DDAP as delivering care consistent with ASAM or other nationally recognized, SUD-specific program standards for residential treatment facilities.

## **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 assess 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. Required staff for all levels include a director and counselor(s), and a clinical supervisor. Additional staff may include a clinical supervisor or lead counselor, social services counselor, a psychiatrist, a psychologist, a medical consultant, and any other health and human services staff or consultants (e.g., SUD counselors or other certified SUD clinicians) who may more effectively serve the facility's population.

## **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 (Pennsylvania now uses the ASAM Criteria.). 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. Services must be determined to be medically necessary by the Behavioral Health Managed Care Organization (BH-MCO) utilization review staff and in accordance with an individualized service plan.

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

*Substance Use Disorder (SUD):* Pursuant to the Section 1115 waiver, residential treatment facilities must provide: (1) individualized treatment planning, with reviews at least every 30 days (every 15 days if treatment is shorter-term); (2) development of a discharge plan; and (3) a plan for referral into continuum of care for beneficiaries with SUD treatment.

## **Treatment Services**

*Substance Use Disorder (SUD):* Pursuant to 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. 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 in particular 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.

Pursuant to the 1115 waiver, the following, among others, are Medicaid-covered services in residential treatment facilities:

- Clinically-directed therapeutic treatment.
- Addiction pharmacotherapy and drug screening.
- Motivational enhancement and engagement strategies.
- Counseling and clinical monitoring.
- Withdrawal management and related treatment.
- Regular monitoring of medication adherence.
- Recovery support services.
- Counseling services involving the beneficiary's family and significant others.

- Education on benefits of medication assisted treatment (MAT) and on-site MAT or facilitated access to MAT off-site.

Very specific requirements for services and supports for specific levels of treatment are included in the waiver documents, including for Levels 3.1, 3.5, 3.7, and 3.7-WM.

## Care Coordination

*Substance Use Disorder (SUD)*: Pursuant to 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.

## Quality Assurance or Improvement

*Substance Use Disorder (SUD)*: No specific requirements for quality assurance or improvement plans for adult residential SUD treatment facilities were located in the waiver documents or Medicaid regulations.

## Special Populations

*Substance Use Disorder (SUD)*: No Medicaid requirements related to special populations were located other than the requirement in the Section 1115 waiver that care for comorbid physical and mental health conditions be improved by the demonstration.

## Location of Medicaid Requirements

Pennsylvania Medicaid Rules and Regulations<sup>7</sup>; Pennsylvania Section 1115 Waiver<sup>8</sup>. Regulatory data collected November 2019.

---

<sup>7</sup> See <http://www.pacodeandbulletin.gov/Display/pacode?file=/secure/pacode/data/055/partIIItoc.html&d=>.

<sup>8</sup> See <https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/pa/pa-former-foster-care-youth-diff-state-ca.pdf>.

## 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>.