



Adult BH HCBS Provider Update

- *Oversight Policy*
- *Terms & Conditions*
- *Authorization Attestation*
- *Training Requirements*

Webinar Agenda

- Background
- Overview of Oversight Policy
- Introduction to Terms and Conditions
- Review of Authorization Attestation Process
- Training Requirements
- Q&A

Background

- NYS started designating agencies to provide Adult BH HCBS in 2014.
- Since that time, OMH and OASAS have worked together to provide oversight and technical assistance as needed. The Oversight Policy will provide a framework for State oversight going forward.
- Adult BH HCBS are paid through Medicaid managed care, which means that designated providers must meet certain requirements and comply with State and Federal regulations.
- Most designated providers have previously provided Medicaid services and are familiar with these requirements and regulations.
- The Terms and Conditions are intended to clarify requirements for all designated providers.
- The Authorization Attestation is required by each designated provider to affirm their compliance with the Terms and Conditions.

Oversight Policy



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Oversight Policy

The Policy on NYS Oversight and Monitoring of Adult BH HCBS Designated Providers includes a framework for:

- Site Visits using a (forthcoming) Standards of Care tool specific to Adult BH HCBS
- Issuance of Statements of Deficiencies (SODs) and submission of Plans of Corrective Action (POCAs), when needed
- Suspension of Designation
- Termination of Designation
- Withdrawal of Designation

Oversight & Designation

- Designation to provide services is a separate process from the licensing of certified programs, which are governed by State regulations
- All providers are subject to oversight in order to maintain their standing as a designated provider
- To ease administrative burdens on agencies, the State will roll oversight of Adult BH HCBS into the existing recertification process for designated agencies that are in receipt of a license to provide other services

Site Visits & Corrective Action

- For all providers, routine site visits will be conducted at a minimum of once every 36 months
- A Standards of Care tool will be used to ensure that designated providers are meeting all requirements in the Provider Manual, Terms & Conditions, and other state guidance documents
- When deficiencies are found, a Statement of Deficiencies (SOD) will be issued and the provider will be expected to submit a Plan of Corrective Action (POCA)

Sanctions

- Deficiencies may result in the application of sanctions
- Sanctions may include:
 - Suspension of Designation: provider must cease new admissions while taking corrective action
 - Termination of Designation: provider must cease taking new admissions and begin discharge/transition planning for current members

Withdrawing Designation

- The Oversight Policy includes a process for withdrawing designation.
- A provider may choose to voluntarily withdraw their designation status for any reason, including a lack of capacity or expertise to provide the services.
- If the State becomes aware that a provider is unable to actively deliver a service, they will contact the provider in writing to request the current status of that service and a plan to become active or begin withdrawing designation.

Terms & Conditions



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Terms and Conditions

- To ensure quality care and participant safety, and to be held in good standing, all designated providers of Adult Behavioral Health Home and Community Based Services must adhere to the prescribed Terms and Conditions (T&C).
- These Terms and Conditions include compliance with State and federal regulations, policies and guidance, standards of care, and provider manuals.
- Designated providers will be required to be in full compliance with Terms and Conditions and must be attested to using the Adult BH HCBS Designated Services Authorization Attestation, within 60 days.

T&C: State and Federal Regulations

- 1A) The Provider will maintain its standing as an **enrolled Medicaid provider** (or at which time they become an enrolled Medicaid provider) and shall comply with the rules, regulations and directives pertaining to Medicaid providers including 18 NYCRR 504.

Adult BH HCBS is not yet an enrollable provider type. We are working with DOH to add this provider type to a Category of Service. For providers that are currently enrolled under a different provider type (e.g. PROS), you must maintain your standing as an enrolled Medicaid provider. For providers not yet able to enroll, we will provide additional guidance as soon as Adult BH HCBS becomes a provider type.

T&C: State and Federal Regulations

- 1B) The Provider represents and warrants that staff, including sub-contracted/per diem staff, who will be providing services,
- i. are not currently excluded, debarred, or otherwise ineligible to participate in any federal health care programs as defined in 42 U.S.C. § 1320a-7b(f) (the “federal healthcare programs”),
 - ii. have not been convicted of a criminal offense related to the provision of healthcare items or services, and
 - iii. are not, to the best of the Provider’s knowledge, under investigation or otherwise aware of any circumstances which may result in an employee or sub-contractor being excluded from participation in the federal healthcare programs.

This shall be an ongoing representation and warranty during the term of this Designation and the Provider will notify OMH/OASAS of any change in the status of the representations and warranty set forth in this section.

T&C: State and Federal Regulations

1C) The Provider represents and warrants that staff, including sub-contracted/per diem staff, who will be providing services have undergone **required pre-employment checks** prior to providing services in an unsupervised setting, in accordance with MHL 31.35, 14 NYCRR 550, 14 NYCRR 816 and SSL 424-a. These background checks are as follows:

- The Justice Center's Criminal Background Check System
- The Staff Exclusion List
- The Statewide Register for Child Abuse and Maltreatment (SCR)-NB

T&C: State and Federal Regulations

- 1D) The Provider will comply with the requirements of 18 NYCRR 431.7(a) to formulate and implement a written management plan to **protect health history information related to** an individual who has been diagnosed as having Acquired Immune Deficiency Syndrome (**AIDS**) or a Human Immunodeficiency Virus (**HIV**)-related illness or a HIV infection or laboratory tests performed on an individual for HIV-related illness. The Provider will require staff, to whom confidential information is disclosed as a necessity for providing services and in accordance with 18 NYCRR 431.7 and section 2782 of the Public Health Law, are fully informed of the penalties and fines for re-disclosure in violation of the New York State law and regulation.

T&C: State and Federal Regulations

- 1E) The Provider will **safeguard the confidentiality of information**. The Provider shall maintain the confidentiality of all such information regarding services provided in conformity with the provisions of applicable State and Federal laws and regulations, including but not limited to Article 27-F of the New York Public Health Law, Social Security Act, 42 USC 1396a a)(7), 42 C.F.R. Part 2, New York Mental Hygiene Law section 33.13 and The Health Insurance Portability and Accountability act (**HIPAA**) at 45 CFR Parts 160 and 164. Any breach of confidentiality by the Provider, its agents or representatives shall be cause for OMH/OASAS to terminate the Provider's Designation.

T&C: State and Federal Regulations

- 1F) The Provider will ensure that services are provided in **settings that are compliant with the CMS Final Rule** (§441.301(c)(4) and §441.710). Each Provider is responsible for reviewing the CMS Home and Community Based Services (HCBS) Final Rule and supplementary guidance to insure compliance with the Final Rule.

As of the date of this webinar, the August 2016 letter from OMH regarding compliance with the Final Rule in OMH-licensed and funded residential settings remains current.

For more information on the CMS Final Rule, please see the [CMS website](#).

T&C: State and Federal Regulations

- 1G) The Designation of any provider to deliver Adult BH HCBS described in the Provider Manual *does not* replace or supersede any other licensure requirements that may be applicable to providers acting within their **scope of practice** in accordance with NY State Educational licensing requirements.

T&C: Policy, Manuals, and Guidance

- 2A) The Provider shall comply with the *Adult Behavioral Health Home and Community Based Services **Provider Manual*** that sets forth procedures for providing these services, which may be amended from time to time. In the event this manual is amended; the amendments shall apply to these Terms and Conditions.

T&C: Policy, Manuals, and Guidance

- 2B) The Provider shall comply with the *New York State Health and Recovery Plan (HARP) / Mainstream Behavioral Health **Billing and Coding Manual*** that sets forth procedures for providing these billing and claiming, which may be amended from time to time. In the event this manual is amended; the amendments shall apply to these Terms and Conditions.

T&C: Policy, Manuals, and Guidance

- 1C) The Provider shall comply with the *Adult BH HCBS **Workflow Guidance***, revised 10/01/17, that sets forth procedures for access to Adult BH HCBS by HARP members, which may be amended from time to time. In the event this guidance is amended; the amendments shall apply to these Terms and Conditions.

T&C: Policy, Manuals, and Guidance

- 1D) The Provider acknowledges that OMH, OASAS, DOH, or Local Government Units (including the Department of Health and Mental Hygiene in New York City), may conduct an **audit or inspection** of this Provider, including the right to inspect any books or records, including member records, and interview any staff or clients, and that any books or records requested by such offices shall be made available upon such request. (An Adult BH HCBS **Standards of Care** tool will be issued at a future date.)

T&C: Policy, Manuals, and Guidance

- 1e) The Provider will participate, at the request of OMH, OASAS, or Center for Medicare and Medicaid Services (CMS), in any **evaluation and monitoring activities** including reports, monitoring visits, satisfaction surveys, and member-specific outcomes.

T&C: Policy, Manuals, and Guidance

- 1F) The Provider is attesting, via the Authorization Attestation, that it has developed or amended its **policies and procedures** to include the following as they relate to Adult BH HCBS...

T&C: Policy, Manuals, and Guidance

- 1F) P&P:
- i. intake, including the referral process and completion of the service-specific evaluation;
 - ii. discharge, including the process for transferring a member to another service provider or level of care;
 - iii. communication and collaboration with Health Home Care Managers, Recovery Coordinators, and other collaterals, as appropriate;
 - iv. service planning and development of the Individualized Service Plan (ISP); documentation of services provided, including completion of the service encounter notes;
 - v. crisis and emergency response;

T&C: Policy, Manuals, and Guidance

1F) P&P:

- vi. compliance with all applicable requirements of state and federal laws, regulations and OMH/OASAS guidance;
- vii. quality improvement and utilization review;
- viii. incident reporting and review;
- ix. record retention specific to the provision of services;
- x. staff training and workforce development;

T&C: Policy, Manuals, and Guidance

1F) P&P:

- xi. community safety for staff;
- xii. confidentiality and disclosure of member records in accordance with state and federal laws;
- xiii. verification of employment history, personal references, work record, and qualifications, as well as criminal history record checks of employees; and,
- xiv. grievance process for service recipients which ensures the timely review and resolution of recipient complaints and which provides a process enabling recipients to request review by the State when resolution is not satisfactory. Provider must have a compliance officer or other administrative structure available to process and address grievances and/or recipient complaints.

T&C: Policy, Manuals, and Guidance

- 1G) The Provider is attesting, via the Authorization Attestation, that the organization has mechanisms that promote the **competency of its workforce**. This includes registration in the **Center for Practice Innovation (CPI) learning management system (LMS)** or other required training as directed by OMH and OASAS.

We will provide more information about required trainings through CPI on slides 41-43 of this presentation.

T&C: Reporting Requirements

- 3A) The Provider must complete an annual **Consolidated Fiscal Report (CFR)** and must report these services under the appropriate program code(s). CFRs are required by all service providers who receive funding, are designated as a BH HCBS service provider for HARP members, and/or operating licensed programs from the Office of Mental Health or Office of Alcoholism and Substance Abuse Services. Please review the current Consolidated Fiscal Report Transmittal Letter, Manual, and Appendices for more information. Additional information regarding document submission information may be found on the OMH and OASAS websites.

T&C: Reporting Requirements

- 3A) (continued) To complete the above, the Provider must establish itself as an OMH or OASAS provider within the interagency system by completing an Agency Contact Form. Completion of this form allows the provider to obtain an agency code and user ID, if it hasn't done so already. This form may be obtained by emailing the OMH [Bureau](#) of Rehabilitation Services and Care Coordination.

T&C: Designation Status

- 4A) The Provider will notify OMH/OASAS of any **material change in the disclosures set forth in its application for designation**. Examples of material changes may include, but are not limited to, a change in CEO or primary contact for Adult BH HCBS or a change in address/ sites.
- 4B) **Sole practitioners and/or group practices** are only eligible for designation if they are able to meet and attest to all Terms & Conditions outlined herein.

T&C: Designation Status

- 4C) The Provider's **Designation may be withdrawn** at any time upon mutual consent of OMH/OASAS and the Provider.

The process for withdrawing your designation is outlined in the Oversight Policy.

T&C: Designation Status

- 4D) Per the State's Policy on NYS Oversight and Monitoring of Adult BH HCBS Designated Providers, the **State may terminate the Provider's designation**, upon written notice of termination to the Provider, if the Provider fails to comply with the terms and conditions of Adult BH HCBS and/or with any laws, rules, regulations, policies or procedures affecting Adult BH HCBS, or if the health, safety or well-being of a HARP member is at risk or if a HARP member is injured and has been determined it is due to the fault of the Provider. Fault shall include acts of negligence, omission and deliberate harm or a failure to properly supervise an employee or subcontractor.

T&C: Designation Status

- 4E) In no event, shall the State be liable for **expenses and obligations** arising from the services(s) in the Provider's Designation **after the termination date**. The Provider shall not submit any claims for payment for services, expenses or obligations incurred after the date of termination of the Provider's Designation.

Authorization Attestation



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T&C Memo & Attestation

Each designated provider will receive a copy of the Terms and Conditions Memo and a blank Authorization Attestation *via email to the primary contact* listed for Adult BH HCBS.

Authorization Attestation

- Affirms compliance with the Terms and Conditions for Adult BH HCBS and is necessary for authorization to provide Adult BH HCBS
- Must be signed by Executive Director or designee
 - In the absence of the executive director, the designee is an individual who has been authorized to sign on their behalf.
- Must be submitted to the State within 60 days
 - May be scanned and submitted via email to Adult-BH-HCBS@omh.ny.gov
- Failure to submit the T&C may result in termination of designation

Authorization Attestation

Adult BH HCBS Designated Services Authorization Attestation

On behalf of the Designated Provider Agency ("Agency"), I (Chief Executive Office or Designee listed below) attest that I have read the document, understand the Terms and Conditions for Adult BH HCBS as set out above, and will abide by all applicable laws, reporting requirements and policies.

Agency Name: _____

Print Name: _____

Signature: _____

Title: _____

Date: _____



Authorization Attestation & Crisis Respite

- Adult BH HCBS Short-Term Crisis Respite and Intensive Crisis Respite are the only services that may still be in hiatus status for some designated providers
- If a designated provider is currently on hiatus, they would not need to submit the Authorization Attestation until they are ready to provide services (go into active status)

If Unable to Attest

If you have concerns regarding your organization's ability to submit the attestation within 60 days, you must contact that State with your specific concerns prior to the deadline for submission.

To do so, please send an email to Adult-BH-HCBS@omh.ny.gov. Please include your specific questions or concerns, using the T&C numbers to indicate where you may be unable to comply (e.g. 1A, 3B).

Training Requirements



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Training Requirements

- All Designated BH HCBS Provider employees are required to complete HCBS-specific training within defined timelines
- Three sections: Core Knowledge Areas, Overview of HARP/HCBS, HCBS service-specific
- Training available in Center for Practice Innovations Learning Management System (CPI LMS)
- Access to CPI LMS is granted to one agency contact who can then assign access to individual staff members
- If your agency's HCBS supervisor has not been contacted, please email adult-bh-hcbs@omh.ny.gov for further information

Timeframes for Completion

Training memo with dates and timeframes will be issued via the HCBS listserv and posted to the OMH website:

- Core Knowledge Areas:
 - Current staff: within 90 days of date of guidance
 - Newly hired staff: within 60 days from date of hire
- Overview of HARP/HCBS
 - Current staff: within 90 days of date of guidance
 - Newly hired staff: within 60 days from date of hire
- HCBS service-specific
 - Current staff: within 90 days of when the training becomes available
 - Newly hired staff: within 60 days from date of hire

Q & A

Contact Info

OMH Bureau of Rehabilitation Services & Care Coordination:
Adult-BH-HCBS@omh.ny.gov

OASAS Division of Practice Innovation & Care Management:
PICM@oasas.ny.gov



Resources Cited in the T&C

- eMedNY Provider Enrollment & Maintenance:
<https://www.emedny.org/info/providerenrollment/>
- CMS Website for the HCBS Final Rule:
<https://www.medicare.gov/medicaid/hcbs/guidance/hcbs-final-regulation/index.html>
- Adult BH HCBS Provider Manual: <https://www.omh.ny.gov/omhweb/bho/docs/hcbs-manual.pdf>
- HARP Billing Manual: <https://www.omh.ny.gov/omhweb/bho/harp-mainstream-billing-manual.pdf>
- Adult BH HCBS Workflow Guidance (revised 10/1/17):
https://www.health.ny.gov/health_care/medicaid/program/medicaid_health_homes/docs/workflow_guidance.pdf
- Center for Practice Innovation Learning Management System:
<https://practiceinnovations.org/Learning-Community-Login>
- OMH CFR: <https://www.omh.ny.gov/omhweb/finance/main.htm>
- OASAS CFR: <https://www.oasas.ny.gov/cfr/index.cfm>