NEW YORK STATE | Office of Addiction Services and Supports

ANDREW M. CUOMO
Governor

ARLENE GONZÁLEZ-SÁNCHEZ, M.S., L.M.S.W.
Commissioner

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COVID-19 Regulatory Relief and Program Guidance for OASAS Certified Programs

The following is intended to provide OASAS certified programs with regulatory relief and guidance on service delivery during the COVID-19 public health emergency. OASAS Certified Providers shall provide services consistent with this and other guidance released by OASAS. Please see the COVID-19 Guidance Documents page on the OASAS website.

Essential Services

During the COVID-19 public health emergency, specific services should be prioritized and are considered essential, to include:

- **Admission** to all certified programs. To the extent possible, admission procedures should be conducted utilizing Telepractice and telephone capability consistent with OASAS guidance.

- **Counseling**. Individual, group, family, collateral and significant other counseling services should be provided, to the extent possible, utilizing Telepractice and telephone capability. If these in-person services cannot be discontinued, social distancing guidelines should be followed and/or personal protective equipment should be utilized. Outpatient Programs should review the COVID-19 Guidance of Outpatient Addiction Treatment Programs.

- **Medication Assisted Treatment**. Assessment, prescription, delivery, dispensing, injection, and Buprenorphine initiation is allowable via Telepractice and telephone. Opioid Treatment Programs should see OASAS OTP COVID FAQs.

- **Peer Advocate Services**. Peer support, outreach and engagement, to the extent possible, should be provided utilizing Telepractice and telephone capability.

Regulatory Flexibility and Waivers

- OASAS Certified Programs *are expected* to comply to the extent possible with all regulatory requirements.
- Providers ***must*** maintain documentation as to why they cannot meet regulatory requirements when utilizing the regulatory relief contained herein.
- Providers ***shall*** keep a record of why and how they are utilizing regulatory relief and must also note in the patient record as reasonable and appropriate.
- Providers need not note every time a service is delivered utilizing regulatory flexibility but are expected to document generally that flexibilities are occurring with a patient due to the COVID-19 emergency.

Staffing

All program staff must deliver services consistent with their Scope of Practice.

OASAS hereby waives and modifies specific staff to patient ratios required by regulation in all programs, provided that sufficient staff are available to cover all required shifts and to ensure patient safety. Programs are expected to exercise multiple options to maintain full staffing, including looking system wide, utilizing networking resources to identify recently furloughed staff etc. Programs are encouraged to collaborate with one another to discuss potential staff sharing capabilities as appropriate / practical. Additionally, programs must work with regional office staff to keep them informed of staffing problems as they arise.

Utilization Review

Providers may suspend internal written utilization review procedures as required by OASAS regulations for the duration of the COVID-19 state of emergency. Utilization review must commence when the state of emergency is over.

Admission

To the extent practicable, admission procedures should be conducted utilizing Telepractice and telephone capability consistent with OASAS COVID Telepractice Guidance. Admission procedures that are not medically necessary to facilitate service provision, such as testing for communicable diseases or toxicology screening, shall be postponed until the state of emergency is over.

In-person medical assessment for admission to Opioid Treatment Programs (OTP) is still required for patients utilizing methadone. OTPs should follow COVID guidance specific to their program for these admissions.

General Documentation and Regulatory Compliance

To the extent that programs can access, maintain and update their electronic medical records (EMR) and other records that is the ideal. However, absent that capability programs should maintain documentation standards as best as possible related to services rendered including but not limited to service recipient, date, type and duration of services, practitioner levels, relation to treatment goals, etc.

Level of Care for Alcohol and Drug Treatment Referral (LOCADTR)

Programs should continue to complete the LOCADTR 3.0, which is accessible from any electronic device.

Treatment Planning

Treatment/Recovery Plans should continue to be developed in collaboration with the individual based on their specified needs. Collaboration can be documented in progress notes as well as any determination of goals and objective.

Formal treatment/recovery plan updates are not required. Providers must document through progress notes the services delivered and the need for additional and / or changes in services (e.g. more individual sessions or client declination of service participation e.g. not comfortable doing groups telephonically) outlined in the treatment/recovery plan.

Treatment/Recovery Plans should continue to be signed either physically or electronically by appropriate level of staff as given in the program's operating regulations. Treatment Plan reviews, if conducted should also be signed by appropriate required staff.

Consent for Release of Information

Federal Confidentiality Rule, **42 CFR Part 2** ***requires*** that Providers obtain ***written*** consent for release of information from individuals prior to releasing information to another entity. 42 CFR does allow for some exceptions to this requirement including one specifically based on medical emergency. What constitutes an emergency is within the discretion on the provider.

OASAS recognizes that during the COVID Emergency providers may have difficulty obtaining written consents to release patient information. Providers need to carefully consider the particular situation the individual is experiencing and whether they believe it constitutes a medical emergency and the need to disclose this information.

SAMHSA's: COVID-19 Public Health Emergency Response and 42 CFR Part 2 Guidance provides information regarding exceptions based on a **medical emergency**, along with the steps providers will need to take in documenting this information.

Space Configuration in Residential and Inpatient Settings

To the extent practicable, residential and inpatient settings shall follow all regulatory requirements. Where programs need to make modifications based on the need to isolate or quarantine patients due to COVID-19, programs must maintain a record of why, how and the length of time regulatory space configuration cannot be met.

Reduction in Minimum Billing Requirements

For the duration of the COVID-19 state of emergency, the following minimum requirements must be met for service delivery to submit claims to Medicaid Fee-For-Service and Medicaid Managed Care. These changes remain in effect until the end of the state of emergency or until supplemental guidance is issued.

- All telephonic **individual** contacts for any service ***must be*** a minimum of five (5) minutes to count as one billable service, *except* **individual counseling** which ***must be*** at least fifteen (15) minutes.
- All telephonic **group counseling** contacts for any service ***must be*** a minimum of fifteen (15) minutes.
- Minimum time periods for service delivery for all other services are hereby reduced by 25% when delivered in-person or via Telepractice.

Opioid Treatment Programs and Residential programs must consult appropriate COVID-19 Guidance for specific service delivery and billing exceptions.

Questions may be directed to Legal@oasas.ny.gov and PICM@oasas.ny.gov.