

Outpatient Mental Health Services Policy

The 14-day comment period for the Outpatient Mental Health Services medical policy ended May 2, 2016. HHSC received comments from multiple stakeholders. Twenty-nine stakeholders provided a general statement of support for the policy. HHSC acknowledges this statement of support. A summary of comments relating to the proposed policy and HHSC responses follows.

Comment: A commenter expressed concern that many doctoral students are being taught by individuals who have not been in practice for decades, but rather in academia. There are vast differences between theory and practice. Even those doctoral candidates who have been in the work force may have been in administrative positions rather than clinical positions, and it would therefore be unwise to allow them privileges in a clinical setting over Licensed Professional Counselors (LPC)-Interns or Licensed Marriage and Family Therapists (LMFT)-Associates who are in fact practicing under supervision and under professional liability coverage (even if it belongs to the supervisor).

Response: HHSC declines to revise the policy at this time. The proposed addition of psychology interns resulted from recent changes to the Texas Occupations Code (Section 501.351(a)) governing psychologists. Comparable changes were not made to the Texas Occupations Code governing LPCs or LMFTs. The new code provisions includes safeguards for the delegation to and supervision of persons enrolled in formal internships. In addition, the policy also includes the safeguard that pre-doctoral interns enrolled in a formal internship be under the direct supervision of a psychologist. This means that the supervising psychologist is in the same office, building or facility when the service is provided, and must be immediately available to furnish assistance and direction.

Comment: A commenter recommended postdoctoral residents to be added as supervisees who would be eligible to perform delegated psychological services under the direct supervision of a licensed psychologist

Response: HHSC agrees to revise the policy to also allow post-doctoral fellows as a delegated category, providing they meet the requirements for provisional licensure.

Comment: A commenter requested specific instructions on how to submit claims for the interns under supervision.

Response: The Texas Medicaid Provider Procedures Manual (TMPPM) will be updated to include specific guidance for submitting claims for delegated services.

Comment: A commenter requested improvements to the 30 annual visit limit for psychotherapy. At present there is not a system in place where a provider can determine the number of visits that have been already been counted toward the 30 session limit in a given year. In addition, Medicaid will not provide authorization retroactively.

Response: HHSC declines to revise the current prohibition against retroactive authorization for services, but encourages providers who are unsure how many visits a patient has remaining to seek prior authorization before initiating treatment.

Comment: A commenter expressed the 30 session visit limit be increased or removed altogether.

Response: HHSC declines to revise the current annual limit for psychotherapy sessions but encourages providers to seek prior authorization for additional visits as appropriate.

Comment: A commenter requested the list of Medicaid providers of outpatient mental health services to include: LPC-Interns under the direct supervision of a LPC-Supervisor. This will increase client access to affordable mental health care and increase LPC-Interns' opportunities to complete the internship hours.

Response: HHSC declines to revise the policy at this time. The proposed addition of psychology interns resulted from recent changes to the Texas Occupations Code (Section 501.351a) governing psychologists. Comparable changes were not made to the Texas Occupations Code governing LPCs.

Comment: A commenter recommended replacing the term "Pre-doctoral Intern" with "Doctoral Intern" throughout the document.

Response: HHSC declines to revise the policy language regarding interns. HHSC is mirroring Texas Psychological Association terminology for referring to interns as pre-doctoral psychology interns. "Pre-doctoral internship settings" is also used by the Texas State Board of Examiners of Psychologists in 21 Texas Administrative Code (TAC) § 469.8. HHSC agrees to revise the policy language from Association of Psychology Postdoctoral and Internship Centers (APPIC) 'accredited' to 'member.'

Comment: A commenter recommended Medicaid add coverage for Neuropsychological testing by a technician, Current Procedural Terminology (CPT) code 96119.

Response: HHSC declines to revise the policy at this time in response to this comment, but HHSC encourages members of the public who wish to suggest a service be covered to submit a topic nomination form. This form and the process for submitting it can be found on the HHSC Medicaid Medical & Dental Policy page: <https://www.hhsc.state.tx.us/medicaid/MPR/index.shtml>

Comment: A commenter expressed concern about the lack of intermediate levels of mental health programs that are allowed by Medicaid. The commenter would like to see lower level mental health services included as benefits for reimbursement.

Response: HHSC encourages members of the public who wish to suggest a service be covered to submit a topic nomination form. This form and the process for submitting it can be found on the HHSC Medicaid Medical & Dental Policy page: <https://www.hhsc.state.tx.us/medicaid/MPR/index.shtml>. Services that carry a significant financial cost will require legislative direction.

Comment: A commenter expressed that delegated psychological services not include psychological testing.

Response: HHSC declines to revise the policy in response to this comment. The American Psychological Association and the Texas State Board of Examiners of Psychologists allow for interns to perform both testing and treatment under the supervision of a licensed psychologist.

Comment: A commenter indicated that currently neuropsychological testing is not payable when administered in a skilled nursing facility (SNF) per the TMPPM. The commenter asked if this means that that there will no longer be a concern if the testing (psych or neuropsych) is done at the SNF, intermediate care facility for individuals with an intellectual disability or related condition (ICF/IID), or extended care facility (ECF) if the initial intake assessments have already been completed.

Response: That is correct, the proposed change in policy in this draft would allow for testing at SNF, ICF, or ECF. Upon adoption of this policy change, the TMPPM will be updated accordingly.

Comment: A commenter recommended only changes or additions are updated to the TMPPM.

Response: The TMPPM Behavioral Health Handbook addresses a variety of services, of which outpatient mental health is one part. Once the proposed changes in this policy are finalized, the TMPPM will be updated accordingly.

Comment: A commenter suggested that Evaluation and Management (E&M) codes be included in the 30-session yearly limit.

Response: HHSC declines to revise the policy in response to this comment. The 30-visit limit is specific to psychotherapy and other limitations are in place for other services such as psychological testing. E&M office visits that include psychotherapy will continue to count toward the 30-visit limit through the add-on psychotherapy code that is billed by the provider. Office visits that do not include psychotherapy will not be counted toward the limit.

Comment: A commenter suggested that there be one standard Outpatient Mental Health prior authorization form for all services, including 90899.

Response: HHSC declines to revise the policy in response to this comment. The current Mental Health Services forms are being revised and consolidated into one form to streamline the prior authorization request process for providers. The CPT code 90899 will continue to be requested on a separate form due to the unique nature of this code.

Comment: Several commenters recommended the policy should be amended to give post-doctoral psychology fellows, as well as the delegating psychologist and pre/post doc psychology fellow, clear co-sign obligations to ensure appropriate oversight and collaboration.

Response: HHSC agrees to revise the policy to also allow post-doctoral fellows as a delegated category, providing they meet the requirements for provisional licensure. HHSC defers to provider organizations such as the American Psychological Association and the Association of Psychology Postdoctoral and Internship Centers to establish guidance related to internship oversight, including co-signing policy.

Comment: A commenter asked if managed care organizations (MCOs) are contracted to provide the same service level as fee-for-service (FFS) when medically necessary.

Response: MCOs must provide the same amount, duration, and scope of services as in FFS.

Comment: A comment was made for a universal adoption of the Texas Department of Insurance (TDI) prior authorization form with HHSC developing specific criteria for mental health.

Response: MCOs are required to accept the TDI form but are allowed to also require additional documentation. The FFS prior authorization form is being updated to include all necessary fields that the TMHP Prior authorization department requires to evaluate requests.

Comment: A commenter asked whether Medicaid benefits for beneficiaries that are not enrolled in an MCO and receive state plan benefits offered under an FFS are not subject to the parity standards under the mental health parity rule, does the state consider that the quantitative limits included in this policy would be in compliance with the requirements under the parity rule when compared to other benefit limitations for medical services or would MCOs adopting these limits be considered in violation of the mental health parity rule?

Response: The final rules related to mental health parity require that each MCO ensure parity is met within their health plan. HHSC will be developing further guidance on how MCOs may make assurances to the state that they are in compliance with applicable mental health parity requirements. However, because MCOs do not share standard quantitative and non-quantitative treatment limitations, each MCO must evaluate parity requirements independently and within the context of their health plan's processes and procedures to ensure they meet the standards of the federal regulation. MCOs should not adopt the treatment limitations included in this FFS policy without conducting a parity analysis. Some of these treatment limitations may violate mental health parity if the predominant treatment limitations the MCO applies to substantially all medical/surgical benefits is less restrictive. HHSC will be issuing further guidance related to mental health parity before the effective date of the final rules.

Comment: A commenter expressed that the title of the policy may be too narrow for its intended purpose. Commenter asked if the policy was designed to cover all mental health services except psychiatric hospitals and psychiatry day treatment programs.

Response: HHSC declines to revise the policy as requested. HHSC has a separate policy for inpatient mental health services, while this policy addresses covered outpatient mental health services.

Comment: A commenter requested changing "Treatment Plan" to "Recovery Plan" or "Care Plan"

Response: HHSC declines to revise the policy in response to this comment

Comment: A commenter suggested if three different types of psychology providers are allowed to bill under supervision it should be allowed for LPC-Interns, LMFT-Associates and should also include LMSWs seeking LCSW licensure under supervision.

Response: The proposed addition of psychology interns resulted from recent changes to the Texas Occupations Code (Section 501.351(a)) governing psychologists. Comparable changes were not made to the Texas Occupations Code governing LPCs, LCSWs and LMFTs.

Policy

Overview/Scope

Paragraph 2

Comment: A commenter asked, if a family of an adult who is in crisis needs to meet with the therapist for crisis management and planning, will it be allowed?

Response: The proposed addition of 90846 will only be payable for children under the age of 21.

Paragraph 3

Comment: A commenter asked for clarity if *International Classification of Diseases, Tenth Edition* (ICD-10) codes will only be covered if they are also in the *Diagnostic and Statistical Manual of Mental Disorders* (DSM).

Response: HHSC follows national coding guidelines and provides tables of payable diagnosis codes for each outpatient mental health procedure code in the TMPPM.

Paragraph 4

Comment: A comment was made that the list of provider types that may provide behavioral health services includes Doctor of Medicine (MD), Doctor of Osteopathy (DO), advanced practice registered nurse (APRN), and physician assistant (PA); however, they may have little to no experience in behavioral health services. The commenter recommended that there be more specific provider types listed, for example, a podiatrist is an MD, but should not perform psychotherapy services.

Response: All provider types eligible to provide outpatient mental health services are listed in paragraph 4. Specialty types are not identified as providers are expected to practice within the scope of their licensure and specialization. The commenter provided the example of a podiatrist practicing outside of their scope, however, a podiatrist is a doctor of podiatric medicine, as opposed to an MD or DO, and by definition may only treat issues relating to the foot.

Paragraph 5

Comment: A commenter asked if mild or very mild cognitive decline is defined by specific diagnosis codes.

Response: Payable diagnosis codes for each service are listed in Sec. 6.13 of the TMPPM. However, existing ICD-10 diagnosis codes do not allow for differentiation by level of cognitive decline. Providers may refer to the Clinical Dementia Rating scale for further clarification regarding categorizing stages of dementia.

Comment: A commenter expressed concern with the statement “Psychotherapy for clients with Alzheimer’s disease or dementia may be a benefit of Texas Medicaid for clients with very mild or mild cognitive decline.” Clients who have moderate or moderately severe cognitive decline continue to experience mood disturbance and research has shown they can also benefit from psychotherapy. Psychotherapy should be based on the individual client’s capacity to benefit from therapy which is determined on a case by case basis.

Response: HHSC declines to amend the policy in response to this statement. Supportive interventions are appropriate for individuals with moderate or severe cognitive decline but would be unlikely to meet the definition of psychotherapy.

Paragraph 5 & 6

Comment: A commenter asked for clarification of the policy on psychotherapy for patients with Alzheimer’s disease or dementia, specifically—what level of cognitive functioning is acceptable, and how is the patient’s ability to utilize psychotherapy best documented?

Response: The stages of dementia described in paragraphs 5 and 6 are taken from the Clinical Dementia Rating scale. HHSC agrees to revise the policy statement to include a reference to that scale for greater clarity for providers. Please refer to paragraph 57 for guidance related to documenting psychotherapy sessions.

Authorization Requirements Paragraph 9

Comment: A commenter expressed concern that one psychiatric evaluation per year per provider implies a different provider could bill. This is a common issue when a patient transfers to a new provider.

Response: The intention of the psychiatric evaluation limitation is that the limit is one per year per provider. If a patient changes provider, a new evaluation may be provided without prior authorization.

Comment: Commenter also requested some basic level of targeted case management and psychosocial rehabilitation be included in the list of services that do not require prior authorization.

Response: Targeted Case Management and Mental Health Rehabilitation services are addressed in separate policies.

Comment: A commenter recommended that authorization remain a requirement for psychological testing and neuropsychological testing. The commenter also suggested placing a limit that is permissible (i.e. 8) for electroconvulsive therapy sessions without authorization and once that is reached then additional sessions should require authorization/review by MCO BH Medical Director.

Response: HHSC declines to revise the policy in response to this comment. Providers are expected to conduct testing only when medically necessary and to document medical necessity for testing in the patient’s medical record. The number of electroconvulsive therapy sessions needed varies greatly by individual, and therefore HHSC declines to revise the policy in response to this comment.

Paragraph 10

Comment: A commenter asked how a provider will know when a patient has used their 30 visits.

Response: HHSC encourages providers to seek prior authorization when the number of annual visits remaining is unknown.

Comment: Commenter expressed that there could be instances where a provider might not seek needed pre-authorization when exceeding the 30 psychotherapy visits per year if or when the patient has an independent therapist.

Response: HHSC declines to revise the policy in response to this comment. Providers must seek prior authorization for additional services.

Paragraph 11

Comment: Commenter asked what the timeline is for utilized authorization on a year-to-date basis if a client changes providers and to receive authorization for a prior approval once submitted.

Response: HHSC encourages providers to seek prior authorization when the number of visits utilized by a patient is unknown. TMHP reviews prior authorization requests within three business days of receipt.

Comment: A commenter expressed that the requirement for new providers to obtain prior authorization before providing services is problematic. New providers will not have all the information necessary to request prior authorization until the patient is seen. The commenter recommends the new provider should be allowed one visit to obtain the necessary documentation.

Response: HHSC agrees to revise the Authorization section to include further guidance for new providers who are unaware how many sessions a patient has remaining. HHSC will allow providers who submit a prior authorization request on the same day as the initial session with a new patient to be reimbursed for that session so that even if the new patient session is in excess of the 30-visit limit, that session will be reimbursed as long as it meets medical necessity.

Paragraph 13

Comment: Commenter asked for clarification on which testing code is four hours versus eight hours.

Response: These limits apply to both payable codes. No more than four hours of testing can be conducted on a given day and no more than eight hours total in a year. Testing that would exceed either of these limits requires prior authorization.

Paragraph 14

Comment: Commenter asked if there are limitations on what is considered evidence-based service.

Response: HHSC will revise the bulleted statement regarding the evidence-based service/procedure to also include "supported by peer-reviewed literature" for greater clarification.

Reimbursement/Billing

Guidelines Paragraph 15

Comment: Commenter asked what limitations exist with the codes in Table A.

Response: Limitations for the codes in Table A are explained in the remainder of the Reimbursement/Billing Guidelines section. Any proposed changes to current limitations will be updated in the TMPPM accordingly once those changes are finalized.

Comment: A commenter expressed concern that health and behavior codes are omitted from this document. Health and behavior psychology services are key to mental health care. CPT codes 96150, 96151, 96152, 96153, 96154, and 96155 should be addressed in this policy.

Psychotherapy for crisis codes are omitted as well, and are key to mental health care. CPT codes 90839 and 90840 should be addressed in this policy.

Medical team conferences are omitted. CPT codes for non-MD mental health providers participating in medical team conferences 99366 and 99368 should be addressed in this policy.

The use of CPT code 90785 for Interactive Complexity has been omitted and should be addressed in this policy.

Response: CPT codes 90839, 90840, 90875, and psychiatric day treatment are not covered benefits in Texas Medicaid. CPT codes 96150-96155 are a covered benefit and are addressed in a separate Health Behavior Assessment and Intervention (HBAI) policy and therefore are not addressed in this policy. Correct coding requires providers billing an E/M code to only use specified add-on codes if billing for psychotherapy. Codes 90837, 90846, and 90847 are not add-on codes and therefore cannot be billed in combination with an E/M code.

Telemedicine and

Telehealth Paragraph 18

Comment: A commenter asked for clarity on whether the provider can be in an office setting and the patient in his or her home for telehealth services.

Response: Telehealth services may be provided when the patient site is the home, provided appropriate telecommunication services are used.

Family Psychotherapy

Paragraphs 24, 25, 26

Comment: Commenter recommended allowing 12 family therapy sessions – equivalent to a 12 week program – without prior authorization.

Response: HHSC declines to revise the policy in response to this comment. Family psychotherapy sessions are included in the 30-visit annual limitation.

Paragraph 27

Comment: A commenter recommended that spouses should be allowed to participate in family psychotherapy services.

Response: HHSC declines to revise the policy to include exclusively spouses as eligible participants in family psychotherapy.

Reimbursement/Billing Guidelines - Delegated Services

Paragraph 34

Comment: A commenter requested that the draft policy be revised to require the supervising Psychologist to be available by phone at all times and within 90-minutes driving distance.

Response: HHSC declines to revise the policy in response to this comment. Direct supervision of interns is required by the Texas State Board of Examiners of Psychologists, and the policy is consistent with the definition of direct supervision in 1 TAC § 354.1060 relating to Medicaid health services.

Comment: Another commenter requested clarification on whether requirements regarding the location and accessibility of the supervising psychologist is consistent with the Centers for Medicare & Medicaid Services' definition of direct supervision.

Response: Texas Medicaid is following the federal definition of direct supervision, defined as being in the same physical location as the supervisee. This is also required by the Texas State Board of Examiners of Psychologists.

Paragraph 35

Comment: A comment was made that APPIC does not accredit programs, but rather programs are members.

Response: HHSC agrees to revise the policy language from APPIC 'accredited' to APPIC 'member.'

Paragraph 39

Comment: Commenter requested paragraph 39 be revised to allow LCSW, LMFT, and LPC clinicians to bill for services provided by interns under their supervision.

Response: HHSC declines to revise the policy in response to this comment. The proposed addition of psychology interns resulted from recent changes to the Texas Occupations Code, Section 501.351(a) governing psychologists. Comparable changes were not made to the Texas Occupations Code governing LPCs, LCSWs, and LMFTs.

Paragraph 42

Comment: Commenter expressed using the UD modifier will require staff training and probably some system documentation and/or billing changes

Response: This is not new guidance regarding pharmacological management but rather was put in place in the fall of 2015 in response to the discontinuation of the M0064 HCPCS code at the end of 2014.

Psychiatric Diagnostic Evaluation

Paragraph 45

Comment: Commenter requested a revision to the TAC Title 25, Part 1 Rule § 412.303 to include licensed psychological associates (LPAs), provisionally licensed psychologists (PLPs), and psychology interns in the definition of Licensed Practitioner of the Healing Arts (LPHA).

Response: The commenter may use the process provided under 1 TAC § 351.2 regarding the petition for the adoption of a rule. However, because the change to the Texas Occupations Code in Section 501.351 only pertains to delegated services, HHSC declines to pursue a change in the definition of LPHA to include pre-doctoral psychology interns.

Comment: A commenter asked who oversees a psychology intern if they cannot bill independently.

Response: Title 3 of the Texas Occupations Code § 305.351 provides that licensed psychologists can bill for services delegated to a psychology intern under their supervision. Interns can provide any test or service within the practice of psychology as determined appropriate by the supervising psychologist. HHSC agrees to revise paragraph 45 in response to this comment to provide additional clarity regarding reimbursement.

Testing

Paragraph 48

Comment: A commenter recommended no changes to evaluations or testing be published as the current TMPPM contains detailed information that does not differ from this policy. This section of the draft policy does not appear as robust as the current TMPPM.

Response: When the proposed changes in this policy are finalized, the TMPPM will be updated accordingly. The TMPPM language will remain for services that are not being changed or added.

Documentation

Requirements Paragraph

57, 58, 59

Comment: Commenter expressed additional training for relevant staff will be needed for these additional documentation requirements, especially intake staff using 90791.

Response: Providers are expected to follow these existing documentation requirements which have been in place for a number of years.

Exclusions

Paragraph 61

Comment: A commenter requested clarification on what is meant by Psychiatric Day Treatment Programs and which specific services are excluded (in contrast to partial hospitalization programs).

Response: Neither psychiatric day treatment nor partial hospitalization are benefits of Texas Medicaid.