

Medicaid Services,
Behavioral Health Provider
Revised Requirements
Senate Bill 74
7 AAC 70

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SB 74 History

- ▶ State of Alaska Legislative Session 2016
- ▶ Adds new provider requirements for non-grantee organizations
- ▶ Adds new independent licensed mental health professionals
- ▶ Reductions to clinical record documentation
- ▶ Needful revisions to grantee provider requirements

7 AAC 70. Behavioral Health Services

7 AAC 70. Behavioral Health Services

Section .010(a):

Overview:

Establishes right for organizations that do not receive money from the State (i.e. grant funding) to also qualify as a Community Behavioral Health Services provider (CBHS);

Section .010(c):

Overview:

Defines “health facility”

7 AAC 70.010. Applicability.

(a) This chapter applies to;

(1) A community behavioral health services provider, including;

(a) A community mental health services provider receiving money from the department under AS 47.30.520 - 47.30.620; [AND]

(b) A substance use disorder treatment provider receiving money from the department under AS 47.30.475 or AS 47.37.045;

(c) Health facility or other legal entity that provides behavioral health services under this chapter and 7 AAC 105 - 7 AAC 160, and does not receive money from the department under AS 47.30.520 - 47.30.620; and

(d) Health facility or other legal entity that provides substance use disorder treatment services under AS 47.37, but does not receive money from the department under AS 47.37;

7 AAC 70.010. Applicability continued

7 AAC 70.010. Applicability.

(a) This chapter applies to;

(2) A substance use disorder treatment provider that is subject to the requirements of AS 47.37, but does not receive money under AS 47.37, including an opioid use disorder treatment program or a substance use disorder treatment provider that provides treatment to recipients [INDIVIDUALS] referred by an alcohol safety action program; in this paragraph, "treatment" does not include services designed solely to provide support, advocacy, education, referral, or other assistance navigating the behavioral health services available to the recipient;

and

(3) A substance use disorder treatment program operated for the Department of Corrections under AS 33.30

7 AAC 70.010. Applicability continued

(b) This chapter does not apply to

(1) An independent mental health practitioner providing diagnostic testing and evaluation services for which the practitioner is billing Medicaid under AS 47.07 and 7 AAC 105 - 7 AAC 160;

(2) A mental health physician clinic providing mental health clinic services for which the provider is billing Medicaid under AS 47.07 and 7 AAC 105 - 7 AAC 160; [OR]

(3) An inpatient psychiatric hospital; [OR]

(4) A behavior analyst or assistant behavior analyst licensed under AS 08.15, or a behavior analyst group practice enrolled under 7 AAC 105.210

(5) A psychologist licensed under AS 08.86; or

(6) A social worker licensed under AS 08.95.

The 7 AAC 70. Behavioral Health Services Regulation

“Health facility” Definition:

7 AAC 70.010

- ▶ (C) health facility or other legal entity that provides behavioral health services under this chapter and 7 AAC 105 - 7 AAC 160, and does not receive money from the department under AS 47.30.520 - 47.30.620; and
- ▶ (D) health facility or other legal entity that provides substance use disorder treatment services under AS 47.37, but does not receive money from the department under AS 47.37;

The 7 AAC 70. Behavioral Health Services Regulation Health Facility Continued

(2) "health facility"

(A) includes any profit or not-for-profit business or corporation that

(i) provides behavioral health clinic services, behavioral health rehabilitation services, or substance use disorder treatment services;

(ii) Is organized in part as a subsidiary to provide behavioral health clinic services, behavioral health rehabilitation service; . or substance use disorder treatment services; or

(iii) Operates a program designed to provide behavioral health clinic services, behavioral health rehabilitation services, or substance use disorder treatment services;

(B) does not include an entity operated by a municipality, borough, or other government entity;

The 7 AAC 70. Behavioral Health Services New Subsection

7 AAC 70.010 is amended by adding a new subsection to read:

(d) A community behavioral health services provider listed in this section **may not** represent itself as a behavioral health service provider or provide services described in this chapter without first obtaining a department approval under 7 AAC 70.030.

7 AAC 70. Behavioral Health Services Continued

7 AAC 70. Behavioral Health Services Continued

.030(a):

Overview:

This section rewritten to include all Medicaid services (except 1115 Waiver) available to CBHS.

.030(b) - (d):

Overview:

Provides clarification of department approval criteria, including how CBHS may qualify for “provisional” approvals

7 AAC 70. Behavioral Health Services Organization Approval

7 AAC 70.030(a) is repealed and readopted to read:

(a) The department will approve an organization to provide behavioral health services in this state only if that organization meets the requirements for a community behavioral health services provider under 7 AAC 70.100 or 7 AAC 70.130 and provides one or more of the following:

- (1) behavioral health clinic services under 7 AAC 135.010(b);
- (2) behavioral health rehabilitation services under 7 AAC 135.010(c);
- (3) day treatment services for children under 7 AAC 135.250;
- (4) 1115 substance use disorder waiver services under 7 AAC 138;
- (5) one or more withdrawal management services under 7 AAC 70.110;
- (6) one or more residential substance use disorder treatment services under 7 AAC 70.120;
- (7) opioid use disorder treatment services under 7 AAC 70.125;
- (8) behavioral health services to a recipient referred by the alcohol safety action program under 7 AAC 70.145; or
- (9) autism services under 7 AAC 135.350.

The 7 AAC 70. Behavioral Health Services Regulation continued

7 AAC 70.030(b) is repealed and readopted to read:

(b) An approval issued under this section, the department will identify

(1) one or more of the services identified in (a) of this section for which the provider is approved;

(2) the service area for which the provider is approved;

(3) the physical location approved by the department for each facility operated by the provider where an individual in the community can access behavioral health services;

(4) the local school district that has a written agreement with a community behavioral health services provider for day treatment services, in accordance with 7 AAC 135.250(d); and

(5) the total number of alcohol and other drug withdrawal management beds or the total number of residential substance use disorder treatment service beds regardless of the funding source.

The 7 AAC 70. Behavioral Health Services Regulation continued

7 AAC 70.030(c) is repealed and readopted to read:

(c) If a behavioral health services provider is accredited under 7 AAC 70.150, the department will issue a department approval for a fixed period of time not to exceed 180 days from the expiration date of the provider's certificate of accreditation, except as provided in (t) and (k) of this section. A provider must seek renewal of a department approval before the expiration date of a current department approval.

The 7 AAC 70. Behavioral Health Services Regulation continued

7 AAC 70.030(d) is repealed and readopted to read:

(d) The department will issue a provisional department approval to a community behavioral health services provider who otherwise meets the requirements of this chapter to allow the provider sufficient time to obtain national accreditation in accordance with 7 AAC 70.150 if the provider

(1) is seeking initial department approval that complies with the interim standards set out in 7 AAC 70.200, and is currently working to get national accreditation;

(2) has a current department approval and is accredited, but is adding a location or service category; or

(3) has a current department approval and is accredited, but the accreditation is not applicable to the services provided.

7 AAC 70. Behavioral Health Services Continued

7 AAC 70. Behavioral Health Services Continued

.100:

Overview: Revisions to CBHS provider requirements which now include:

- ❑ .100(a)(3): amends CBHS physician agreement (needed to deliver clinic services) to allow the physician to deliver services “as needed.”
- ❑ (a)(14) - (18): references new requirements for ASAP referrals (see below); requires recipient informed consent, and reporting missing or deceased recipients; clarifies statutory and regulatory requirements for criminal background checks.



7 AAC 70. Behavioral Health Services Continued

7 AAC 70. Behavioral Health Services Continued

.110:

Overview:

Section rewritten to replace detoxification terms and criteria with “withdrawal management services” terms and criteria to conform to recently adopted ASAM 3rd Ed.

NOTE: There are numerous revisions throughout the project that establish similar ASAM conforming language.

7 AAC 70. Behavioral Health Services Continued

7 AAC 70. Behavioral Health Services Continued

.130:

Overview: New section that establishes provider requirements for non-grantee CBHS.

NOTE: Requirements are the same as for grant funded CBHS with the addition of need to obtain business liability insurance.

.145:

Overview: New section that establishes criteria for accepting recipient treatment referrals from Alcohol Safety Action Program and the Courts.

7 AAC 70. Behavioral Health Services Continued

7 AAC 70.130 is repealed and readopted to read:

7 AAC 70.130. Qualifications of a community behavioral health services provider not receiving money from the department. To be approved by the department, a community behavioral health services provider described in 7 AAC 70.010(a)(I) that does not receive money from the department must

(1) meet the requirements of this section and the additional requirements of 7 AAC 70.030(a) for the services that the provider has been approved to provide ;

(2) collect and report the statistical and service data requested by the department under AS 47.37.140, if providing any substance use disorder treatment service listed in 7 AAC 70.030(a)(4) - (7);

(3) have a documented formal agreement with a physician to provide general direction and direct clinical services as needed, if the provider is providing behavioral health clinic services;

7 AAC 70. Behavioral Health Services Continued

7 AAC 70.130 is repealed and readopted to read continued:

(4) maintain a clinical record for each recipient in accordance with 7 AAC 135.130;

(5) ensure that all recipients have given informed consent;

(6) report to the department any recipient who is missing or deceased;

(7) comply with the requirements of AS 47.05.300 - 47.05.390 and 7 AAC 10.900 - 7 AAC 10.990 as applicable for each individual described in 7 AAC 10.900(b) and associated with a provider;

(8) submit to the department a record of a criminal history background check for each member of the provider's staff upon request;

(9) maintain liability and malpractice insurance in accordance with professional and industry standards; and

7 AAC 70. Behavioral Health Services Continued

7 AAC 70.130 is repealed and readopted to read continued:

(10) comply with the following requirements regarding provider records, including recipient clinical records if the provider closes as a service provider under this chapter:

- (A) notify the department in writing not later than 48 hours after the decision to close as a service provider;
- (B) notify the department whether the provider will
 - (i) retain and store the provider records;
 - (ii) transfer its records to the department; or
 - (iii) transfer its records to another organization;

7 AAC 70. Behavioral Health Services Continued

7 AAC 70.130 is repealed and readopted to read continued:

(C) maintain a formal plan for the transfer of records that ensures access to records and include a description of how and when the provider will notify each recipient of service of where the files will be transferred, and how the recipient can get a copy of that recipient's records; the plan for notice under this subparagraph must include a list of those recipients for whom the provider has on file a signed release allowing the recipient's files to be transferred, and a list of those for whom a signed release has not been obtained;

(D) before transfer, ensure that records of minors are separated from records of adults.

7 AAC 70. Behavioral Health Services Continued

7 AAC 70.145. Additional requirements to accept referrals from the alcohol safety action program or other court-ordered treatment referrals.

A provider that renders behavioral health services to a recipient referred by the alcohol safety action program, as defined in AS 28.35.039, or that accepts other court-ordered treatment referrals must:

- (1) agree to receive paperwork or referral authorization before screening, assessing, or rendering behavioral health services for the purpose of satisfying court-ordered treatment;
- (2) immediately notify in writing the referring entity if a recipient has been discharged for not complying with the treatment program;
- (3) seek approval from the referring entity before a recipient can be readmitted to services to satisfy the recipient's court-ordered treatment if that recipient has been discharged for noncompliance;
- (4) agree to admit recipients to receive behavioral health services not later than 30 calendar days after the referral unless the provider contacts the referring entity to make other arrangements for the recipient's care; and
- (5) report to the department or referring entity any information related to the recipient's care as requested.

7 AAC 70. Behavioral Health Services Continued

70.990(32):

Overview: New definition of “substance use disorder counselor”;

70.990

Overview(37) Definition of “missing” as used in 7 AAC 70.100 and 7 AAC 70.130.

7 AAC 70. Behavioral Health Services Continued

7 AAC 70.990(32) is repealed and readopted to read:

(32) "substance use disorder counselor" means an individual who

(A) has completed a course of study, training, or education, or who has documented evidence of experience, that has resulted in demonstrated competency to assist with or to independently conduct screening, assessment, treatment planning, case management, and provision of rehabilitative services for the treatment of substance use disorders; and who

(i) works within the scope of the individual's education, training, and experience;

(ii) adheres to a code of professional ethics; and

(iii) participates in continuing education to enhance relevant knowledge, skills, abilities, and professional characteristics; or

(B) holds any current, valid certificate from the National Association for Alcoholism and Drug Abuse Counselors, the International Certification and Reciprocity Consortium, the Alaska Commission for Behavioral Health Certification, or the Alaska Native Tribal Health Consortium Behavioral Health Aide Program

7 AAC 70. Behavioral Health Services Continued

7 AAC 70.990 is amended by adding new paragraphs to read:

70.990 (37) "missing," with respect to

(A) a child, means absent for more than 10 hours without approval from a residential child care facility as defined in AS 47.32.900;

(B) an adult recipient who currently receives services from a behavioral health services provider, means absent for more than 72 hours without approval from a residential treatment facility, a housing facility owned or operated by the provider, or an assisted living home where services are delivered to the recipient by the provider; or

(C) an individual described in (A) or (B) of this paragraph, means the subject of a missing person report that the provider receives from a member of law enforcement or a family member;