



Office of  
Mental Health

Office of Addiction  
Services and Supports

# Commissioners' Regulatory Waiver

## TO ENABLE OMH-LICENSED AND OASAS-LICENSED CERTIFIED COMMUNITY BEHAVIORAL HEALTH CLINICS TO OPERATE IN COMPLIANCE WITH FEDERAL AND STATE LAWS AND RULES

July 1, 2024

**WHEREAS**, from 2014-2020, New York State promoted health care initiatives, which foster integration among physical and behavioral health providers, under the Medicaid "Delivery System Reform Incentive Payment (DSRIP)" program whose purpose was to restructure the health care delivery system through regional collaboration and by promoting innovative projects, with the primary goal of reducing avoidable hospital use by 25% over 5 years;

**WHEREAS**, New York State determined certain regulatory flexibilities were necessary to implement DSRIP projects, including the integrated care initiatives, and pursuant to Public Health Law (PHL) § 2807(20)(f), New York State permitted mental health, addiction, and primary care providers to provide more integrated care by reducing regulatory burdens to providing such services, such as service volume thresholds and license or certification requirements otherwise required for providers to receive reimbursement incentives for integrated care;

**WHEREAS**, since the Medicaid DSRIP program ended in 2020, the legislature recognized the continued need for regulatory flexibility to promote integrated care and enacted PHL § 2807(20-a), which authorizes the Commissioners of the Office of Mental Health ("OMH") and Office of Addiction Services and Supports (OASAS) ("Commissioners") to waive regulatory requirements that are necessary and consistent with applicable law, to allow providers that are involved in DSRIP projects or replication and scaling activities to avoid duplication of requirements for DSRIP promising practices, such as integrated care;

**WHEREAS**, in 2016, New York was one of eight states selected to develop Certified Community Behavioral Health Clinics (CCBHCs) pursuant to the demonstration opportunity provided in Section 223 of the Protecting Access to Medicare Act (P.L. 113-93), CCBHCs in New York are integrated mental health and substance use disorder outpatient programs licensed, certified, or approved by OMH and OASAS. Like the DSRIP integrated care initiatives, CCBHCs foster accessible, integrated, mental health and addiction treatment through reimbursement incentives;

**WHEREAS**, the Commissioners have determined that the continuation of CCBHCs in New York State is a DSRIP replication and scaling activity and that CCBHCs require regulatory relief pursuant to PHL § 2807(20-a) to engage in the DSRIP promising practice of increasing integrated care in New York State.

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**NOW, THEREFORE, IT IS HEREBY ORDERED** that, pursuant to Public Health Law § 2807(20-a), the Commissioner of Mental Health and the Commissioner of Addiction Services and Supports each waives the regulations of their respective agencies listed as follows, and will not sanction New York State-designated CCBHCs operating as an OMH Mental Health Outpatient Treatment and Rehabilitative Services (“MHOTRS”) program licensed pursuant to Part 599 of Title 14 of the New York Code of Rules and Regulations (NYCRR) or an OMH-hosted Integrated Outpatient Services (“IOS”) program licensed pursuant to 14 NYCRR Part 598 or as an OASAS Substance Use Disorder Outpatient program licensed pursuant to 14 NYCRR Part 822 or an OASAS-hosted IOS program licensed pursuant to 14 NYCRR Part 825, for noncompliance with these regulations:

1. **14 NYCRR § 598.11(a)(2)(iii)(e) and 14 NYCRR § 825.11(a)(2)(iii)(e)** are waived contingent upon CCBHC compliance with the utilization review standards contained in Part 599. This waiver is granted because the utilization review standards applicable to OMH-hosted IOS programs codified in § 598.11(a)(2)(iii)(e) and § 599.6(m)(2) conflict and CCBHC compliance with both regulations is unnecessary. The waiver of § 825.11(a)(2)(iii)(e) is granted to enable CCBHCs to operate pursuant to uniform utilization review standards regardless of the underlying IOS host agency;
  2. **14 NYCRR § 598.12(c)(2) and 14 NYCRR § 825.12(c)(2)** which require IOS providers approved to integrate substance use disorder services to employ a Medical Director who holds a subspecialty board certification from the American Board of Medical Specialties, or an addiction certification from the American Society of Addiction Medicine, or a certification by the American Board of Addiction Medicine or a subspecialty board certification in Addiction Medicine from the American Osteopathic Association, are waived contingent upon the CCBHC meeting the requirements applicable to CCBHCs contained in current or future Substance Abuse and Mental Health Services Administration (SAMHSA) CCBHC certification criteria and NYS guidance. As a condition of this waiver, CCBHCs must document continuous efforts to recruit and retain both psychiatrists and experienced Medication Assisted Treatment/Substance Use Disorder providers;
  3. **14 NYCRR § 599.8(a)**, which requires that individuals be admitted to a MHOTRS program licensed pursuant to Part 599 or an OMH-hosted IOS program licensed pursuant to Part 598, based on a designated mental illness diagnosis, and **14 NYCRR § 822.8(b)(1)(i)**, which requires that, unless otherwise authorized, individuals be admitted to an Substance Use Disorder (SUD) outpatient program licensed pursuant to Part 822 or an OASAS-hosted IOS program licensed pursuant to Part 825, based on documentation of a SUD based on the criteria in the most recent version of the Diagnostic and Statistical Manual or the International Classification of Diseases, are waived because federal CCBHC requirements require CCBHCs to admit individuals with mental illness or addiction disorders for treatment. Additionally, CCBHCs will not be sanctioned for failure to comply with the NYS-issued “Integrated Outpatient Services – Implementation Guidance,” available at [https://oasas.ny.gov/system/files/documents/2019/12/integrated\\_outpatient\\_services\\_guidance.pdf](https://oasas.ny.gov/system/files/documents/2019/12/integrated_outpatient_services_guidance.pdf), which preserves the admitting diagnosis requirement for OMH-licensed and OASAS-licensed IOS programs that are not approved to operate CCBHCs; and
  4. **14 NYCRR § 599.14(d)(8)**, which provides that complex care management services in a MHOTRS program licensed pursuant to 14 NYCRR Part 599 or OMH-hosted IOS program licensed pursuant to 14 NYCRR Part 598 must be provided no later than 14 calendar days following a face-to-face psychotherapy, psychotropic medication treatment, or crisis intervention mental health outpatient program service, is waived because this requirement conflicts with the
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federal and state CCBHC certification criteria requiring that CCBHCs provide unlimited access to medically necessary care management services.

**This Order shall be deemed effective as of July 1, 2024**, and shall remain in effect for three years from the effective date herein, or earlier if the DSRIP waiver issued under PHL § 2807(20-a) expires, or unless extended, stayed, modified, suspended, or terminated by the Commissioners.

Witness, my hand and official seal of the New York State Office of Mental Health at the City of Albany, New York, this 25<sup>th</sup> day of June in the Year two thousand and twenty-four.



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**Ann Marie T. Sullivan, MD**  
**Commissioner of the Office of Mental Health**

Witness, my hand and official seal of the New York State Office of Addiction Services and Supports at the City of Albany, New York, this 25<sup>th</sup> day of June in the Year two thousand and twenty-four.



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**Chinazo Cunningham, MD, MS**  
**Commissioner of the Office of Addiction Services and Supports**

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