



14 NYCRR Parts 599.3 and 599.14

Regulatory Impact Statement

1. **Statutory Authority:** Sections 7.09 and 31.04 of the Mental Hygiene Law grant the Commissioner of Mental Health the authority and responsibility to adopt regulations that are necessary and proper to implement matters under their jurisdiction.

2. **Legislative Objectives:** The proposed rule supports the legislative objectives to provide high quality mental health services in an efficient and effective manner, while providing programs the flexibility in the provisions of both medical and mental health services.

3. **Needs and Benefits:** The proposal would raise the limitation on the total number of annual visits for which a program licensed solely under Article 31 may provide medical services, other than health monitoring and health screening from five to thirty percent. This rule is necessary to ensure that programs licensed solely under Article 31 of the mental hygiene law can provide medical services, other than health monitoring and health screening, to recipients at the same level programs licensed solely under Article 28 of the public health law can provide mental health services to recipients without the need for dual licensure.

Currently licensed Article 31 programs cannot provide medical services to recipients if such services comprise more than five percent of their annual visits without obtaining a license from the Department of Health. Simultaneously, programs licensed under Article 28 of the Public Health Law only need a license from the Office of Mental Health if the provision of mental health services comprise more than 30% of annual visits. This revision would ensure parity between Article 31 and Article 28 programs and increase the ability for licensed Article 31 programs to provide needed medical services to recipients.

The revision to 14 NYCRR Part 599.14 is necessary to give licensed Article 31 programs that provide medical services to recipients more flexibility in the provision of medical and mental health services to recipients. Currently, licensed Article 31 programs may only submit claims to Medicaid for three services per individual per day which are comprised of two mental health services and one health service. Allowing these programs to submit claims to Medicaid for up to three services per individual per day that can also be comprised of two health services and one mental health service per day will increase the ability for licensed Article 31 programs to provide needed medical services to recipients.

4. **Costs:**

(a) **Cost to State government:** There are no new costs to State government as a result of these amendments.

(b) **Cost to local government:** There are no new costs to local government as a result of these amendments.

(c) **Cost to regulated parties:** There are no new costs to providers as a result of these amendments.

5. Local government mandates: These regulatory amendments will not involve or result in any additional imposition of duties or responsibilities upon county, city, town, village, school, or fire districts.
6. Paperwork: There is no additional paperwork as a result of these amendments.
7. Duplication: These regulatory amendments do not duplicate existing State or federal requirements.
8. Alternatives: There are no alternatives to consider as this issue was identified to be critical by providers. Currently Article 31 providers are more limited in the amount of health services they can provide without an Article 28 license than the amount of mental health services Article 28 providers are able to provide without an Article 31 license. This change would bring the two thresholds into parity with one another. The change in Part 599.14 would enable Article 31 providers more flexibility in providing health and mental health services within current billing limitations.
9. Federal standards. These amendments are aligned with federal standards.
10. Compliance schedule: The amendments would be effective upon publication of the Notice of Adoption in the *State Register*.

Section 1. Subdivision (d) of section 599.3 of Title 14 of the NYCRR is amended to read as follows:

(d) Programs which provide medical services, other than health monitoring and health screening, that comprise more than 30 ~~[five]~~ percent of total annual visits shall also be licensed by the Department of Health.

§2. Subdivision (c) of section 599.14 of Title 14 of the NYCRR is amended to read as follows:

c) Medicaid claims may be submitted for no more than three services ***per day***, comprising of two mental health services and one health service, ***or up to two health services and one mental health service,*** ~~per day]~~ for any individual, not including crisis intervention, complex care management, peer support services, or any services that are provided as part of IOP. For the purposes of this subdivision, psychotropic medication treatment, injectable psychotropic medication administration, injectable psychotropic medication administration with monitoring and education, and complex care management services may be counted as either health services or psychiatric services. No more than one health physical may be claimed in one year.