NEW YORK STATE OF OPPORTUNITY. | Department of Health | Office of Mental Health | Office of Alcoholism and Substance Abuse Services

February 20, 2015

Finger Lakes PPS
ROCHESTER GENERAL HOSPITAL/UNITY HOSPITAL
Deborah Blanchard, Project Director FLPPS
2100 Brighton Henrietta Town Line Road Unit #100
Rochester, NY 14623

Dear Ms. Blanchard:

The Department of Health (DOH), the Office of Mental Health (OMH), the Office of Alcoholism and Substance Abuse Services (OASAS) are pleased to respond to the request for waivers from certain regulatory requirements submitted under the Delivery System Reform Incentive Payment (DSRIP) Program. This letter responds to the request submitted by Rochester General Hospital in its capacity as lead for the Finger Lakes Performing Provider System.

Pursuant to Public Health Law (PHL) § 2807(20)(e) and (21)(e) and in connection with DSRIP Project Plans and projects under the Capital Restructuring Financing Program which are associated with DSRIP projects, DOH, OMH, and OASAS may waive regulations for the purpose of allowing applicants to avoid duplication of requirements and to allow the efficient implementation of the proposed projects. However, the agencies may not waive regulations if such waiver might create a patient safety risk.

Accordingly, any regulatory waivers approved herein are for projects and activities as described in the Project Plan application and any implementation activities reasonably associated therewith. Such regulatory waivers may no longer apply should there be any changes in the nature of a project. It is the responsibility of the PPS and the providers that have received waivers to notify the relevant agency when they become aware of any material change in the specified project that goes beyond the scope of which the waiver was granted. Further, any regulatory waivers approved are only for the duration of the projects for which they were requested.

The approval of regulatory waivers are contingent upon the satisfaction of certain conditions. In all cases, providers must be in good standing with the relevant agency or agencies. Other conditions may be applicable as set forth in greater detail below. The failure to satisfy any such conditions may result in the withdrawal of the approval, meaning that the providers will be required to maintain compliance with the regulatory requirements at issue and could be subject to enforcement absent such compliance.

Specific requests for regulatory waivers included in the Finger Lakes PPS Project Plan application are addressed below.

9.01 Finger Lakes PPS 2.b.ii, 3.a.v 10 NYCRR 401.3

Background and justification provided in your waiver request:
This regulatory waiver will primarily impact projects 2.b.ii. Transitional Supportive Housing Services, 3.a.v.Behavioral Interventions Paradigm (BIP) in Nursing Homes. The common component among these programs is the need to provide an expedited and flexible means for current facilities to repurpose design; in order to add or modify services while maintaining DOH safety codes. A waiver would address: a) the need to modify current facility design to contain and/or separate behavioral health services, b) the enablement of rapid implementation of changes as dictated by changing community needs; primarily through the expedition of lengthy State approval cycles. This relief is an alternative to seeking a waiver for tele-health services or the need to transport patients to a different site which introduces a challenge given the scarcity of transportation services in the region. PPS policies and procedures will define mental health and substance abuse clinical roles, qualifications, orientation, practice and documentation standards and clinical supervision and quality evaluation and monitoring for all mental health and substance abuse clinicians embedded in DSRIP projects, including an organizational leadership and quality oversight structure for mental health and substance abuse clinicians embedded in DSRIP project sites.

In a clarification call with you and others from the PPS on 1/27/2015 you stated that the purpose of this request was to increase the flexibility to add behavioral beds to the nursing home. On a call on 2/3/2015 you provided further clarification and stated that some existing nursing home beds would be used to create the behavioral beds and some new beds would need to be added.

Response to waiver request:
Bed Capacity. Approved The PPS requested waivers of 10 NYCRR 401.3, pertaining to the CON process for changes in bed capacity. Regulations requiring that bed capacity increases be subject to a full CON review are waived.
These requests are approved, provided that the facility submit a limited review application for decreases in bed capacity and an administrative review application for increases in bed capacity. DOH will expedite all applications related to DSRIP projects.
More information needed. OASAS seeks additional information clarifying the proposal as it relates to substance abuse including the specific providers, practitioners and services. Please provide such information to Trishia Allen of OASAS via email at Trishia.Allen@oasas.ny.gov.

9.02 Finger Lakes PPS 2.a.i, 2.b.ii, 3.a.i 10 NYCRR Part 401.2 (b)

Background and justification provided in your request:
This regulatory waiver will primarily impact projects 2.a.i Create an Integrated Delivery System focused on Evidence-Based Medicine and Population, 2.b.ii. Transitional Supportive Housing Services, 3.a.i. Integration of Behavioral Health and Primary Care Services. The common component among these programs is the need to minimize barriers to patient care, which may include venue of care, rapid access to care, and patient service in a safe setting. A waiver would address: a) the ability to assess individuals in their home verses a clinical setting when appropriate. Many individuals need supports in their home to achieve increased independence and remain in the community, b) the current regulation which impedes our ability for professionals other than nurses and physicians to see a patient immediately after hospital discharge, c) the cost for medical transportation for individuals who are not able to access services outside the home independently.

PPS policies and procedures will define mental health and substance abuse clinical roles, qualifications, orientation, practice and documentation standards and clinical supervision and quality evaluation and monitoring for all mental health and substance abuse clinicians embedded in DSRIP projects including an organizational leadership and quality oversight structure for mental health and substance abuse clinicians embedded in DSRIP project sites.

In a clarification call with you and others from the PPS on 1/27/2015 you stated that the purpose of this request was to increase the flexibility to allow home based services to be provided in a transitional supportive housing setting.

Response to waiver request:

Off-Site Services or Home Visits. Approved. The PPS requested waivers of 10 NYCRR § 401.2(b) for the purpose of allowing practitioners affiliated with Article 28 providers to provide services outside of the certified service site. The request is approved, contingent upon notification by the PPS of the specific providers, practitioners and services. However, reimbursement for the provision of such services would not be available absent approval of a State Plan Amendment (SPA) to the State Medicaid Plan and associated state regulations, both of which are being pursued by the Department. In addition, the Department will explore, through Value-based Payment options, incorporating more flexibility for home visits, telemedicine and team visits.

9.03 Finger Lakes PPS 3.a.i, 4.b.ii 10 NYCRR Part 670

Background and justification provided in your request: This regulatory waiver will primarily impact projects 3.a.i. Integration of Behavioral Health and Primary Care Services. 4.b.ii. Increase Access to Disease Prevention Care and Management in Clinical and Community Settings. An expedited Certificate of Need process, or some form of relief from the CON requirement would facilitate the rapid establishment of co-located services to reduce the risk of a delayed start and inability to meet the timeline established to meet metrics and milestones.

Response to waiver request:

Integrated services. Approved solely with respect to14 NYCRR 599.4(r) and (ab), which will be waived contingent upon following the DSRIP Project 3.a.i Licensure Threshold Model outlined in Appendix A to this letter. DOH, OMH and OASAS have determined that no additional waivers are needed if providers are integrating services under such model. As noted in Appendix A, the use of this model is contingent upon:

- submission of an application by the PPS with the identification all providers involved in such model;
- the verification of the good standing of such providers by DOH, OMH and OASAS, as appropriate;
- satisfaction of the physical plant standards as delineated in Appendix A.

If a PPS later identifies the need for a waiver, a request can be made at that time.

9.04 Finger Lakes PPS 2.a.i, 3.a.i, 4.b.ii 10 NYCRR Part 86-4.9

Background and justification provided in your request: It is precisely these regulations today that do not permit the provision of integrated care or the billing for care as the visit threshold is exceeded. This regulatory waiver will primarily impact projects 2.a.i. Create an

Integrated Delivery System focused on Evidence-Based Medicine and Population Health Management, 3.a.i. Integration of Behavioral Health and Primary Care Services, 4.b.ii. Increase Access to Disease Prevention Care and Management in Clinical and Community Settings. The component common across these projects is the need to integrate and provide multiple same day services. A waiver would relieve the threshold requirement currently in place, which limits service reimbursement when multiple services are administered at the same physical location. Alternatively, the current billing structure limits the number of co-located services that are being developed.

Response to waiver request:

Integrated Services Billing. Approved contingent upon following the Integrated Services Model outlined in Appendix A to this letter. As noted in Appendix A, the use of this model is contingent upon, among other things:

- submission of an application by the PPS with the identification all providers involved in such model including which specific provisions of the regulations they are seeking to waive at which specific providers ;
- the verification of the good standing of such providers by DOH, OMH and OASAS, as appropriate;
- satisfaction of the physical plant standards as delineated in Appendix A.

9.05 Finger Lakes PPS 3.a.i, 3.a.ii, 4.a.iii 14 NYCRR Part 599

Background and justification provided in your request: This part establishes standards for the certification, operation and reimbursement of mental health clinic treatment programs serving adults and children. It presupposes that a patient is admitted into a specialty episode of care with specific requirements for admission, discharge, treatment planning, and a limit on other services provided in a mental health clinic treatment program. The regulatory waiver will primarily impact projects 3.a.i. Integration of Behavioral Health and Primary Care Services, 3.a.ii. Behavioral Health Community Crisis Stabilization Services, 4.a.iii. Strengthen Mental Health and Substance Abuse Infrastructure Across Systems. The common component across these projects is to provide increased services with currently limited resources.

A waiver would address a) enhancement of DSRIP models that seek to provide episodic mental health care and treatment for persons present in non-mental medical health settings who require mental health and crisis stabilization, while attempting to link them, as appropriate and indicated, to more intensive psychiatric care, or patients who are in non-behavioral health system (PCP) and need episodic care from a mental health and substance abuse provider, b) the incorporation of peer-to-peer services within the clinic services, c) the ability of FQHCs and Article 28 clinics to offer more than the 10,000 annual service level cap currently in place.

Response to waiver request:

Integrated services. Approved solely with respect to14 NYCRR 599.4(r) and (ab), which will be waived contingent upon following the DSRIP Project 3.a.i Licensure Threshold Model outlined in Appendix A to this letter. The Department, OMH and OASAS have determined that no additional waivers are needed if providers are integrating services under such model. As noted in Appendix A, the use of this model is contingent upon:

- submission of an application by the PPS with the identification all providers involved in such model;

- the verification of the good standing of such providers by DOH, OMH and OASAS, as appropriate;
- satisfaction of the physical plant standards as delineated in Appendix A.

If a PPS later identifies the need for a waiver, a request can be made at that time.

9.06 Finger Lakes PPS 3.a.i, 4.a.iii 14 NYCRR Part822

Background and justification provided in your request: This regulatory waiver will primarily impact projects 3.a.i. Integration of Behavioral Health and Primary Care Services, 3.a.ii. Behavioral Health Community Crisis Stabilization Services, 4.a.iii. Strengthen Mental Health and Substance Abuse Infrastructure Across Systems. The common component across these projects is the need to co-locate behavioral health services with medical and/or substance abuse settings. A waiver would address a) the ability of a chemical dependency service provider to travel to different primary care locations and mental health clinics to complete substance use screenings, assessments and treatment sessions (currently prohibited without satellite site approval), c) alleviate the burden of counting and reporting which is a barrier even though the OMH regulations may allow for providing a small percentage of mental health services in a primary care setting, D) the challenge of meeting DSRIP goals to reduce ED and inpatient admissions for a patient population by addressing their mental health and substance abuse needs in healthcare integrated settings in order to maximize recovery and functioning E) the expansion of services through triage services in currently licensed facilities to reduce patient safety risks.

Response to waiver request:

Integrated services. Approved solely with respect to14 NYCRR 599.4(r) and (ab), which will be waived contingent upon following the DSRIP Project 3.a.i Licensure Threshold Model outlined in Appendix A to this letter. The Department, OMH and OASAS have determined that no additional waivers are needed if providers are integrating services under such model. As noted in Appendix A, the use of this model is contingent upon:

- submission of an application by the PPS with the identification all providers involved in such model;
- the verification of the good standing of such providers by the Department, OMH and OASAS, as appropriate;
- satisfaction of the physical plant standards as delineated in Appendix A.

If a PPS later identifies the need for a waiver, a request can be made at that time.

9.07 Finger Lakes PPS 2.a.i, 2.d.i, 3.f.i 18 NYCRR Section 505.10(c)

Background and justification provided in your request: This regulatory waiver will primarily impact projects 2.a.i Create an Integrated Delivery System focused on Evidence-Based Medicine and Population, 2.d.i Implementation of Patient Activation Activities to Engage, Educate, and Integrate the uninsured and low/non-utilizing Medicaid populations into Community Based Care, and 3.f.i Increase Support Programs for Maternal and Child Health (Including High-Risk Pregnancies). The common component among these programs is transportation of patients to needed services, including uninsured not currently covered under this regulation."A waiver would address: a) Restrictions on destinations. Destinations that may

benefit a DSRIP program participant but are not currently eligible; for example, trips to pharmacies, grocery stores, etc., b) Limiting use to regulated carriers. Community transportation providers that may have seating capacity, but which are not approved and regulated vendors; for example, a local ARC program could ride share PPS participants, c) Freedom of choice requirement under fee for service. Waiving this requirement would permit PPS to designate which carrier a recipient must use to create efficient routing, d) Taxi rates & mileage reimbursement rules. The current methodology limits mileage reimbursement to one passenger per group.

Response to waiver request:

Medicaid Transportation Waiver. Denied. The Medicaid transportation waiver request is denied. The Medicaid Redesign Team and Medicaid Administration Reform initiatives intend to strengthen the financial, quality assurance, and programmatic controls which are now being implemented through the Department's transportation management contractor. This contractor professionally assesses the medically necessary transportation modalities and generates prior authorizations in accordance with prescribed program requirements. Further, the waiver requests are contrary to administrative actions taken by the Department of Health and its transportation manager to achieve the ongoing savings necessary to meet the requirements of the state financial plan and the Global Cap on Medicaid spending.

9.08 Finger Lakes PPS 2.a.i, 2.b.iii, 2.b.iv, 2.b.vi, 4.b.ii N.Y. PBH. LAW § 3605, 10 NYCRR part 760

Background and justification provided in your request: To create a sufficient network of culturally competent providers across the PPS service area, this waiver will primarily impact projects 2.a.i. IDS, 2.b.iii. ED care triage for at-risk populations, 2.b.iv. Care transitions to reduce 30-day readmissions, 2.b.vi for transitional supportive housing services and 4.b.ii – Increase Access to Disease Prevention Care and Management in Clinical and Community Settings.

This waiver would address: a) the limit in choice of providers in rural areas, b) the length of time and complexity of obtaining a Certificate of Need (CON) to expand the geography of Home Health agencies, c) the goal of meeting the patient in their community by redefining "site of care" to include patient engagement through the use of culturally competent community based organizations, d) reduce the need for most costly services in regions with limited health care resources to deliver care coordination services including community health workers to address lifestyle changes, medication adherence, health literacy, and self-efficacy in disease self-management, e) an alternative to establishing new Home Health Agencies which would be lengthy and lead to fragmentation of care.

Response to waiver request:

Expanding CHHA Service Area-Determination Pending. In cases where waivers are approved, the state agency with regulatory jurisdiction over the regulatory requirement will send an approval notification letter the affected providers on whose behalf the PPS submitted the waiver request. Providers further will be advised that agency surveillance staff will be notified of the regulatory waiver approvals; however, providers should maintain a copy of their waiver approval letters at any site subject to surveillance.

Please note that the Department of Health will publish on its website a list of regulatory waivers that have been approved to assist PPSs in determining whether additional waivers may be appropriate for the activities within a PPS. Additional requests for waivers, as well as any

questions regarding the foregoing, may be sent by email to DSRIP@health.ny.gov with "Regulatory Waiver" in the subject line.

Thank you for your cooperation with this initiative. We look forward to working with you to transform New York's delivery system.

Sincerely,

Howard Zucker M.D.
Howard A. Zucker, M.D., J.D.
Acting Commissioner
New York State Department of Health

Ann Marie T. Sullivan, M.D. Commissioner
New York State Office of Mental Health

Arlene González-Sánchez
Commissioner
New York State Office of Alcoholism
And Substance Abuse Services

Attachment A
DSRIP Project 3.a.i Licensure Thresholds

Guidance for DSRIP Performing Provider Systems Integrating Primary Care and Behavioral Health (Mental Health and/or Substance Use Disorder) Services under Project 3.a.i

Background

Generally, to offer both primary care and behavioral health services (meaning mental health and/or substance use disorder services), a provider must be licensed or certified by more than one state agency (Department of Health, Office of Mental Health or Office of Alcoholism and Substance Abuse Services), unless they fall under the applicable "Licensure Threshold."

In order to facilitate integration of primary care and behavioral health services for purposes of Project 3.a.i, the Department of Health (DOH) and the Office of Mental Health (OMH) will raise their Licensure Thresholds and the Office of Alcoholism and Substance Abuse Services (OASAS) will implement a Licensure Threshold for outpatient providers licensed or certified by DOH, OMH or OASAS that are part of the DSRIP project, permitting such providers to integrate primary care and behavioral health services under a single license or certification so long as the service to be added is not more than 49 percent of the provider's total annual visits ("DSRIP Project 3.a.i Licensure Threshold") and the patient initially presents to the provider for a service authorized by such provider's license or certification.

In order to help ensure quality care and patient safety, providers that wish to integrate services between the existing Licensure Threshold and the DSRIP Project 3.a.i Licensure Threshold will be expected to be in good standing and adhere to prescribed sections of the integrated outpatient regulations -- 10 NYCRR Part 404, 14 NYCRR Part 598 and 14 NYCRR Part 825.

A. Primary Care Provider Offering Mental Health Services

Existing Licensure Threshold

Currently, a provider licensed under PHL Article 28 and offering mental health services – meaning a general hospital outpatient department or a diagnostic and treatment center (primary care provider) – and which has more than 2,000 total visits per year must be licensed under Article 31 of the Mental Hygiene Law (MHL) by OMH if it has **more than 10,000 annual visits** for mental health services or **more than 30 percent of its total annual visits** are for mental health services.

DSRIP Project 3.a.i Licensure Threshold

OMH will raise this Licensure Threshold for DSRIP providers participating in 3.a.i projects so that primary care providers may provide **up to 49 percent of its total annual visits** for mental health services without MHL Article 31 licensure.

Prescribed Regulatory Requirements

In addition to being in compliance with applicable PHL Article 28 requirements, DSRIP providers integrating services between the existing Licensure Threshold and the DSRIP Project 3.a.i Licensure Threshold will need to meet the prescribed regulatory requirements of DOH's integrated outpatient services regulations – 10 NYCRR Part 404:

- 10 NYCRR 404.4(f), which defines "integrated care services."
- 10 NYCRR 404.6(b), which provides the governing board's oversight responsibilities with respect to the provider integrating services.
- 10 NYCRR 404.7(c)(1), (c)(2), (e) and (f), which require treatment planning for any patient receiving behavioral health services from an integrated services provider.
- 10 NYCRR 404.8(a), (b), (c), (d), (e), (f), (g), (i), (j) and (l), which identify minimum policies and procedures for integrated services providers.
- 10 NYCRR 404.9(b)(2)(i), (b)(2)(ii)(b) and (b)(2)(iii), which identify the minimum services required of providers that will be integrating mental health care services.
- 10 NYCRR 404.10(c)(1)(iv) and (c)(1)(vii), which provide general facility requirements for individual and group sessions and maintenance of records and confidentiality of all patient information.
- 10 NYCRR 404.11(a)(2)(i) and (a)(2)(ii), which require providers integrating mental health services to comply with quality assurance requirements under 14 NYCRR Part 599.
- 10 NYCRR 404.13(a), (d)(1), (d)(2)(ii) and (d)(11), which require that a record be maintained for every individual admitted to and treated by a provider integrating services and be able to accept consent forms, if applicable. Additional requirements include minimum content fields specific to each model.

B. Primary Care Provider Offering Substance Use Disorder Services

Existing Licensure Threshold

Currently, there are no Licensure Thresholds. A primary care provider may not provide substance use disorder services without being certified by OASAS pursuant to MHL Article 32.

DSRIP Project 3.a.i Licensure Threshold

OASAS will implement a Licensure Threshold for DSRIP providers participating in 3.a.i projects so that primary care providers may provide **up to 49 percent of its total annual visits** for substance use disorder services without MHL Article 32 certification.

Prescribed Regulatory Requirements

In addition to being in compliance with applicable PHL Article 28 requirements, DSRIP providers integrating substance use disorder services up to the DSRIP Project 3.a.i Licensure Threshold will need to meet the prescribed regulatory requirements of DOH's integrated outpatient services regulations – 10 NYCRR Part 404:

- 10 NYCRR 404.4(f), which defines "integrated care services."
- 10 NYCRR 404.6(b), which provides the governing board's oversight responsibilities with respect to the provider integrating services.
- 10 NYCRR 404.7(c)(1), (c)(2), (e) and (f), which require treatment planning for any patient receiving behavioral health services from an integrated services provider.
- 10 NYCRR 404.8(a), (b), (c), (d), (e), (f), (g), (i), (j) and (l) which identify minimum policies and procedures for integrated services providers.
- 10 NYCRR 404.9(c)(4), which identifies the minimum services required of providers that will be integrating substance use disorder services.
- 10 NYCRR 404.10(c)(1)(iv) and (c)(1)(vii), which provide general facility requirements for individual and group sessions and maintenance of records and confidentiality of all patient information.
- 10 NYCRR 404.11(a)(2)(i) and (a)(2)(ii), which require providers integrating substance use disorder services to comply with quality assurance requirements under 14 NYCRR Part 822.
- 10 NYCRR 404.12(c)(2), which provides staffing requirements for providers offering substance use disorder services.
- 10 NYCRR 404.13(a), (d)(1), (d)(2)(iii), (d)(11) and (f)(2), which require that a record be maintained for every individual admitted to and treated by a provider integrating services and be able to accept consent forms, if applicable. Additional requirements include minimum content fields specific to each model.

C. Behavioral Health Services Provider Offering Primary Care Services

Existing Licensure Threshold

Currently, a provider licensed by OMH under MHL Article 31 to provide outpatient mental health services or certified by OASAS under MHL Article 32 to provide outpatient substance use disorder services must obtain PHL Article 28 licensure by DOH if **more than 5 percent of total annual visits** are for primary care services or if any visits are for dental services.

DSRIP Project 3.a.i Licensure Threshold

DOH will raise this Licensure Threshold for DSRIP providers participating in 3.a.i projects so that a behavioral health services provider may provide **up to 49 percent of its total annual visits** for primary care services without PHL Article 28 licensure.

Prescribed Regulatory Requirements

In addition to being in compliance with applicable MHL Article 31 or 32 requirements, DSRIP providers integrating services between the existing Licensure Threshold and the DSRIP Project 3.a.i Licensure Threshold will need to meet the prescribed regulatory requirements of OMH or OASAS' integrated outpatient services regulations – 14 NYCRR Part 598 or 14 NYCRR Part 825, respectively:

- 14 NYCRR 598.4(f) and (j) or 14 NYCRR 825.4(f) and (j), which define "integrated care services" and "primary care services."
- 14 NYCRR 598.6(b) or 14 NYCRR 825.6(b), which provides the governing board's oversight responsibilities with respect to the integrated services provider.
- 14 NYCRR 598.8 (c), (d), (e), (g), (i), (j), (k), (l), (m), (n) and (o) or 14 NYCRR 825.8(c), (d), (e), (g), (i), (j), (k), (l), (m), (n) and (o), which identify minimum policies and procedures for integrated services providers.
- 14 NYCRR 598.9(a) or 14 NYCRR 825.9(a), which identifies the minimum services required of providers that will be integrating primary care services.
- 14 NYCRR 598.10 or 14 NYCRR 825.10, which provides minimum physical plant requirements for facilities integrating services.
- 14 NYCRR 598.11(a)(1) or 14 NYCRR 825.11(a)(1), which requires providers integrating primary care services to ensure the development and implementation of a written quality assurance program.
- 14 NYCRR 598.12(a), (b) and (c)(1) or 14 NYCRR 825.12(a), (b) and (c)(1), which provide staffing requirements.
- 14 NYCRR 598.13(a), (c), (d)(1), (d)(2)(i), (d)(10), (d)(11), (e) and (f) or 14 NYCRR 825.13(a), (c), (d)(1), (d)(2)(i), (d)(10), (d)(11), (e) and (f), which require that a record be maintained for every individual admitted to and treated by a provider integrating services. Additional requirements include designated record keeping staff, record retention and minimum content fields specific to each model. Confidentiality of records is assured via patient consents and disclosures compliant with state and federal law.

D. Mental Health Services Provider Offering Substance Use Disorder Services and Substance Use Disorder Services Provider Offering Mental Health Services

Existing Licensure Threshold

Currently, there are no Licensure Thresholds. However, programs licensed by OMH or certified by OASAS currently are able to integrate mental health and substance use disorder services with certain limitations pursuant to a Memorandum of Agreement between the agencies.

DSRIP Project 3.a.i Licensure Threshold

OMH licensed and OASAS certified providers may continue to integrate mental health and substance use disorder services **up to 49 percent of their total annual visits.**

Prescribed Regulatory Requirements

DSRIP providers integrating mental health and substance use disorder services will need to be in compliance with applicable MHL Article 31 or 32 requirements. In addition, such providers will need to meet the prescribed regulatory requirements of OMH or OASAS' integrated outpatient services regulations – 14 NYCRR Part 598 and 14 NYCRR Part 825, respectively:

- 14 NYCRR 598.4(f) or 14 NYCRR 825.4(f), which defines "integrated care services."
- 14 NYCRR 598.6(b) or 14 NYCRR 825.6(b), which provides the governing board's oversight responsibilities with respect to the integrated services provider.
- 14 NYCRR 598.8(c), (d), (e), (g) and (i) or 14 NYCRR 825.8(c), (d), (e), (g) and (i), which identify minimum policies and procedures for integrated services providers.
- 14 NYCRR 598.9(c) or 14 NYCRR 825.9(b), which identifies the minimum services required of providers that will be integrating mental health or substance use disorder services.
- 14 NYCRR 598.12(c)(2), which provides staffing requirements for OMH licensed providers integrating substance used disorder services.
- 14 NYCRR 598.13(a), (d)(1), (d)(2)(iii) and (d)(11) or 14 NYCRR 825.13(a), (d)(1), (d)(2)(ii) and (d)(11), which require that a record be maintained for every individual admitted to and treated by a provider integrating services and be able to accept consent forms, if applicable. Additional requirements include minimum content fields specific to each model.

Above DSRIP Project 3.a.i Licensure Thresholds

When a provider believes its volume of services will approach the DSRIP Project 3.a.i Licensure Threshold limits outlined above, a provider has the option of integrating services by either seeking a second license for a particular site or integrating services under the integrated outpatient services regulations (see 10 NYCRR Part 404, 14 NYCRR Part 598 and 14 NYCRR Part 825). Providers that elect to integrate services under the integrated outpatient regulations will need to comply with all applicable provisions.

Providers may not bill Medicaid for any service rendered above the DSRIP Project 3.a.i Licensure Threshold amount unless the appropriate licensure or certification is in place at the time the service was rendered.

Requirements

Providers that are interested in integrating services under a single license will need to submit an application to the Department of Health, which will be available soon, so that DOH, OMH and OASAS will, among other things, be able to:

- identify the outpatient provider and its sites that will be integrating services under the Licensure Thresholds;
- ascertain the services to be added;
- project the annual visits for the services that will be integrated at a provider site;
- verify that the provider integrating services is in good standing. A provider is in good standing if each clinic site:
    - is licensed by OMH and has been operating for a period of 1 year or greater as documented on the operating certificate (Tier 3 providers are not in good standing for purposes of these requirements); and/or
    - is certified by OASAS and all of its programs have an operating certificate with partial or substantial compliance (2 or 3 years); and/or
    - has an operating certificate from DOH and is not currently under any enforcement action or pending enforcement;
- if applicable, review floor plans and other physical plant issues.

Billing Guidance

Providers integrating services under the DSRIP 3.a.i Licensure Threshold should submit one claim for each visit with all the procedures/services rendered on the date of service (e.g., behavioral health services and primary care services). Provider clinic payment will be processed through the APG grouper/pricer and paid in accordance with the payment blend and APG pricing rules (packaging, discounting, bundling) associated with services normally billed under that APG rate code. Providers are expected to adhere to the licensure threshold limits identified in the table below. Providers may use a modifier to indicate when a separate and distinct procedure is performed (e.g., Procedure Modifier 59) in accordance with the American Medical Association's approved coding/billing guidelines for the procedures/services coded supported by appropriate documentation that justifies the modifier selected. Federally Qualified Health Centers that have not opted into APGs should bill their all-inclusive PPS rate of all services furnished to a patient on the same day.

LICENSURE THRESHOLDS

Existing Licensure Thresholds	DSRIP Project 3.a.i Licensure Thresholds
A PHL Article 28 provider that has more than 2,000 total visits per year must be licensed by OMH if it has more than 10,000 annual visits for mental health services or more than 30 percent of its total annual visits are for mental health services.	A PHL Article 28 provider that has more than 2,000 total visits per year must be licensed by OMH if more than 49 percent of its total annual visits are for mental health services.
No existing Licensure Threshold. A PHL Article 28 provider may not provide substance use disorder services without being certified by OASAS pursuant to MHL Article 32.	A PHL Article 28 provider must be certified by OASAS if more than 49 percent of its total annual visits are for substance use disorder services.
A MHL Article 31 provider or MHL Article 32 must be licensed by DOH if more than 5 percent of its total annual visits are for primary care services or if any visits are for dental services.	A MHL Article 31 provider or MHL Article 32 must be licensed by DOH if more than 49 percent of its total annual visits are for primary care services or if any visits are for dental services.
No existing Licensure Threshold. A MHL Article 31 provider or MHL Article 32 is able to integrate mental health and substance use disorder services pursuant to a Memorandum of Agreement between OMH and OASAS.	A MHL Article 31 provider must be certified by OASAS if more than 49 percent of its total annual visits are for substance use disorder services. A MHL Article 32 provider must be certified by OMH if more that 49 percent of its total annual visits are for mental health services.