



Department
of Health

Office of
Mental Health

Office of Alcoholism and
Substance Abuse Services

December 15, 2015

Suffolk PPS
Jennifer Jamilkowski, DSRIP Director
Stony Brook University Hospital
101 Nicolls Road
Stony Brook, New York 11794

Dear Ms. Jamilkowski:

The New York State Department of Health (Department), the Office of Mental Health (OMH), and 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 Stony Brook University Hospital, in its capacity as lead for the Suffolk Performing Provider System (PPS).

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, the Department, 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 pertaining to patient safety nor waive regulations if such waiver would risk patient safety. Further, any waivers approved under this authority may not exceed the life of the project or such shorter time periods as the authorizing commissioner may determine.

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 for 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 Suffolk PPS Project Plan application are addressed below.

**1 State University of New York at Stony Brook University Hospital (Suffolk PPS)
14 NYCRR 599.5(e) 3.a.i**

Background and Justification submitted with your request:

The referenced regulation interferes with the proposed operation and stated goals of 3ai by discouraging integration between primary care providers (“PCPs”) and Article 31 facilities. The waiver is needed for participating Article 31 facilities to place OMH licensed providers in existing primary care sites without the undue burden and delay as a result of submitting various satellite location applications for approval. PCPs and Article 31 facilities, which can serve patients with mental health issues in an integrated manner, will be deterred from offering such services as to avoid the submission of satellite applications. Deterrence of this kind will hinder the achievement of the goals of this project as integrated primary and mental health care is necessary to improve the overall health outcomes of the Medicaid population.

Response to Waiver Request:

OMH Response – Denied. Each site must be approved individually, as the given provider and physical plant/environment must be reviewed for competence and appropriateness. OMH is committed to an expedited review of all PPS applications submitted to effectuate DSRIP goals.

2 Suffolk PPS 14 NYCRR 599.5(e) 4.a.ii

Background and Justification submitted with your request:

The referenced regulation interferes with the proposed operation and stated goals of 4aii by discouraging integration between PCPs and Article 32 facilities. The waiver is needed for participating Article 32 facilities to place OASAS licensed providers in existing primary care locations without the undue burden and delay as a result of submitting various satellite location applications for approval. PCPs and Article 32 facilities, which can serve patients with behavioral health issues in an integrated manner, will be deterred from offering such services as to avoid the submission of satellite applications. Deterrence of this kind will hinder the achievement of the goals of this project as integrated primary and behavioral health care is necessary to improve the overall health outcomes of the Medicaid population.

Response to Waiver Request:

OASAS Response – Approved. To the extent regulatory impediments still exist, OASAS will waive specific requests. Regulatory waiver for provision of off-site services is not required. Providers are permitted to bill for services provided in the community and outside of a licensed clinic, based on CMS approved 1115 Waiver.

3 Suffolk PPS 14 NYCRR 551.9 3.a.i

Background and Justification submitted with your request:

The referenced regulation interferes with the proposed operation and stated goals of 3ai by discouraging integration between primary care providers (“PCPs”) and Article 31 facilities. The waiver is needed for participating Article 31 facilities to place OMH licensed providers in existing primary care sites without the undue burden and delay as a result of submitting various satellite location applications for approval. PCPs and Article 31 facilities, which can serve patients with mental health issues in an integrated manner, will be deterred from offering such services as to avoid the submission of satellite applications. Deterrence of this kind will hinder the achievement of the goals of this project as integrated primary and mental health care is necessary to improve the overall health outcomes of the Medicaid population.

Response to Waiver Request:

OMH Response – Denied. Each site must be approved individually, as the given provider and physical plant/environment must be reviewed for competence and appropriateness. OMH is committed to an expedited review of all PPS applications submitted to effectuate DSRIP goals.

4 Suffolk PPS 14 NYCRR 551.9 4.a.ii

Background and Justification submitted with your request:

The referenced regulation interferes with the proposed operation and stated goals of 4a ii by discouraging integration between PCPs and Article 32 facilities. The waiver is needed for participating Article 32 facilities to place OASAS licensed providers in existing primary care locations without the undue burden and delay as a result of submitting various satellite location applications for approval. PCPs and Article 32 facilities, which can serve patients with behavioral health issues in an integrated manner, will be deterred from offering such services as to avoid the submission of satellite applications. Deterrence of this kind will hinder the achievement of the goals of this project as integrated primary and behavioral health care is necessary to improve the overall health outcomes of the Medicaid population.

Response to Waiver Request:

OASAS Response – Approved. To the extent regulatory impediments still exist, OASAS will waive specific requests. Regulatory waiver for provision of off-site services is not required. Providers are permitted to bill for services provided in the community and outside of a licensed clinic, based on CMS approved 1115 Waiver.

5 Suffolk PPS 10 NYCRR 405.19(g)(2)(ii) 2.b.ix

Background and Justification submitted with your request:

A waiver is needed from the requirement that observation beds within the ED be in a unit located in a distinct physical space because it hinders the ability of a hospital to take a flexible and customized approach to observational care. There are hospitals within the Suffolk PPS that currently do not have the ability to expand their EDs to accommodate for the amount of patients who could be adequately treated in an observational bed. Such hospitals need the ability to

spread such observational beds throughout the ED so they may treat these patients in an efficient and appropriate manner and fewer patients are admitted as inpatients in the hospital. Through a scattered bed approach, patients will receive customized care beyond their classification as an emergency room/observational unit patient by placing them in appropriate locations throughout the ED, based on their conditions. Additionally, care coordination services will be a primary focus for such patients to ensure that there is appropriate follow up post-discharge. The implementation of comprehensive care coordination services as well as customized and more flexible placement of observational beds will contribute to the overall reduction in avoidable hospital readmissions, one of the major goals of DSRIP.

Response to Waiver Request:

Observation Beds. No waiver needed. Newly-amended regulations allow for observation beds using scatter bed approach.

6 Suffolk PPS 10 NYCRR 822-3.1(b) 4.a.ii

Background and Justification submitted with your request:

The referenced regulation provides that Medicaid reimbursement is available only for services delivered at an OASAS certified site. The waiver is needed in order for participating Article 32 facilities to place OASAS licensed providers in existing primary care locations as the restriction on reimbursement promulgated by the regulation will deter individual OASAS professionals and those employed by Article 32 facilities from providing services related to substance abuse and mental emotional behavioral disorders in any setting other than a certified Article 32 facility. Deterrence of this kind will hinder the achievement of the goals of this project as integrated primary and behavioral health care is necessary to improve the overall health outcomes of the Medicaid population.

Response to Waiver Request:

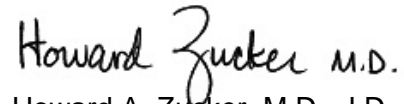
OASAS Response – Approved. To the extent regulatory impediments still exist, OASAS will waive specific requests. Regulatory waiver for provision of off-site services is not required. Providers are permitted to bill for services provided in the community and outside of a licensed clinic, based on CMS approved 1115 Waiver.

In cases where waivers are approved, the agencies will send letters directed to the providers, who otherwise would be responsible for complying with the regulatory provisions at issue. Further, providers will be advised that agency staff who conduct surveillance activities will be notified that these regulatory waivers have been approved; however, they should maintain a copy of their waiver letters at any site subject to surveillance.

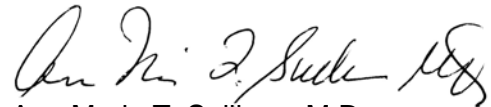
Please note that the Department will publish on its website a list of regulatory waivers that have been approved to assist PPSs in determining whether additional waivers may be appropriate for the activities within a PPS. Additional requests for waivers, as well as any questions regarding the foregoing, may be sent by e-mail 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 A. Zucker, M.D., J.D.
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