



Department  
of Health

Office of  
Mental Health

Office of Alcoholism and  
Substance Abuse Services

December 15, 2015

Westchester Medical Center PPS  
June Keenan, DSRIP Director  
Westchester Medical Center  
100 Woods Road  
Valhalla, New York 10595

Dear Ms. Keenan:

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 Westchester Medical Center, in its capacity as lead for the Westchester Medical Center 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 Westchester Medical Center PPS Project Plan application are addressed below.

**1 Westchester Medical Center PPS 14 NYCRR Part 599.17 3.a.i, 3.a.ii**

**Background and Justification submitted with your request:**

This regulation restricts the use of telepsychiatry to OMH-licensed Article 31 outpatient clinics where the provider (psychiatrist or nurse practitioner) is physically present in a licensed clinic engaged in a therapeutic encounter with a patient who must also be physically present in a licensed clinic at another geographic location. WMC PPS seeks a waiver to the requirement that the recipient must be physically located in an OMH-licensed Article 31 clinic. WMC PPS requests that OMH permit recipients of telepsychiatry served by the PPS to be physically located at Article 31 clinics, DOH-licensed Diagnostic & Treatment Centers (DTCs), participating primary care practices, NYS-licensed residential programs and/or recipients of PPS crisis stabilization services.

The waiver is necessary for the following reasons:

- The PPS service area, the Hudson Valley Region, has a severe shortage of psychiatrists (15.7% per 100,000 compared with NYS at 36%). In order to expand access to BH services, specifically psychiatry, the PPS will need to more efficiently use psychiatric staff at OMH-licensed clinics.
- The PPS is implementing Project 3(a)(i) Model 1 at 22 DOH-licensed Article 28 DTC locations, many of which are federally qualified health centers (FQHC), as well as dozens of private primary care practices to actively engage 50,000 patients over five years. All patients screened positive for depression and/or substance abuse require a "warm hand-off" to a BH clinician for further assessment and treatment as appropriate. This project is designed to improve identification of BH disorders and expand the numbers of Medicaid beneficiaries who receive timely, effective community treatment. Success depends on access to psychiatric services as necessary.
- While there are PPS partner Article 31 clinics that may need to utilize telepsychiatry to facilitate patients' access psychiatry services available at other Article 31 sites, the PPS's main need for telepsychiatry is in other types of NYS licensed programs that have difficulty recruiting psychiatrists and are participating in the PPS's BH projects. Our project plans call for psychiatrists at Article 31 clinics to offer telepsychiatry services at DTCs implementing integrated primary/BH care and private primary care practices.
- The PPS is implementing Project 3(a)(ii) that will offer crisis stabilization services in the community to reduce hospital inpatient and emergency service use. The geography of our PPS service area is quite large with poor public transit systems. Many of our patients do not reside near an Article 31 clinic and/or cannot access a clinic near them for urgent care because of transportation barriers. Project success depends on access to timely, effective psychiatric services as necessary.
- Telepsychiatry is essential to serve patients of the PPS's BH Crisis Stabilization programs, including those being established through OMH's

Home and Community Based Services (HCBS) waiver, as well as to residents of NYS-licensed residential programs (e.g. residential treatment facilities, community residences, nursing homes, adult homes) who may be at high risk of inpatient admission.

- Telepsychiatry will enable the PPS and its many partners to make available psychiatric assessment, diagnosis, medication treatment and crisis management in a more accessible and timely fashion at primary care sites and licensed residences where patients reside, as well as through mobile crisis services.
- Telepsychiatry will also enable the PPS to more effectively match patient need for a psychiatrist that is culturally/language competent, and to expand access to psychiatric specialists such as child psychiatrists.
- In 2014, WMC received NYS IAAF funding to implement a robust telepsychiatry program in the DSRIP service area. Because of OMH's limited regulatory scope, today these services can only be provided to other OMH-licensed outpatient clinics.
- Initially we request that the waiver be granted to WMC's Valhalla Campus and Mid-Hudson Regional Hospital (MHRH) Article 31 clinics, which have an academic partnership with New York Medical College, to provide telepsychiatry services to patients actively engaged in the PPS' BH projects at partner locations. Services will initially commence within the WMC Health System (WMCHHealth)--MHRH campus, Bon Secours Charity Health System in Orange and Rockland County, and affiliate hospitals of the Health Alliance Hudson Valley in Ulster County. Subsequently, WMC will also make the service available to the over 200 partner organizations in the WMC PPS.
- The model proposed is the "hub and spoke" model endorsed by the American Telemedicine Association. The "hub" possesses available psychiatric expertise and conducts therapeutic clinical encounters with patients located at "spoke" sites in various geographic locations.
- The Westchester Medical Center has used Philips' technology and services for more than a decade. With the recent introduction of WMCHHealth, the alliance with Philips has been enhanced. Through the new partnership, WMCHHealth and all network partners will have access to new technology and services to help with organization-wide implementation as well as creating a unified standard of care. The partnership will be most evident in areas such as medical technology, strategy development and operations. Education and training will be included.
- This alternative will significantly enhance patient access to psychiatric care that would otherwise be very challenging to obtain. Therapeutic sessions will be held using specific "state of the art" 2 way video conferencing equipment so that the image and voice of the patient and practitioner are extremely clear and precise. The telepsychiatry sessions are encrypted, in compliance with all HIPAA and regulatory standards and are completely voluntary with patient's consent for participation. The sessions are not video recorded and the pan, tilt and zoom features can provide a variety of views in accordance with the agreement of the patient and psychiatric practitioner.
- To ensure oversight and quality, WMCHHealth has developed policies, procedures and protocols for the use of telepsychiatry in inpatient and outpatient settings. These include technical guidelines, processes for patient enrollment, and protocols for essential components of patient encounters.

Additionally, there are provisions for confidentiality and consent, physical environment requirements, culturally competent language translation services, and communication of prescription, lab and clinical documentation. Education and training as well as guidelines for quality review of telepsychiatry sessions are developed.

- As the PPS BH projects are implemented, the WMC PPS may request that additional Article 31 partners be added to the waiver. In future waiver requests, we will detail the technology utilized by additional partners that seek to offer telepsychiatry to PPS patients physically located in sites other than Article 31 clinics (e.g. Article 31 clinic using with mobile crisis team and in community residences).

### **Response to Waiver Request:**

**Telehealth.** More information needed. OMH and the Department would like to meet with the Westchester Medical Center PPS to discuss in greater detail in which specific settings recipients are located. Please e-mail Angela Whyland of the Department at [Angela.Whyland@health.ny.gov](mailto:Angela.Whyland@health.ny.gov). Title 14 NYCRR § 599.17 establishes the basic standards and parameters for the use of telepsychiatry in OMH-licensed clinic programs – “clinic-to-clinic”. At the present time, OMH will consider regulatory waiver requests for applying “spoke” clinics to receive telepsychiatry services from “hub” hospitals. However, the OMH regulatory construct for telepsychiatry does not extend to hospitals nor to any other non-OMH licensed clinic setting at the present time. OMH is currently exploring development of regulatory standards for the use of telepsychiatry in psychiatric inpatient and Comprehensive Psychiatric Emergency Programs (CPEPs), but will not have such standards in place prior to early-2016.

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](mailto: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.

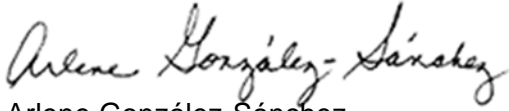
Sincerely,



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