

# Colorado Training and Reference Manual for Behavioral Health Services

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*This document is intended as a guideline for use by Behavioral Health Organizations and their contracted providers in Colorado in conjunction with the Colorado Uniform Service Coding Manual, the regulations of the Colorado Division of Behavioral Health, and other pertinent laws and regulations.*

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*Disclaimer: This manual is not a legal description of all aspects of Medicaid clinical record documentation regulations. It is a practical guide for providers who participate in the Medicaid Program. Guidelines and procedures in this Manual are based on requirements of State and Federal law. Thus the guidelines and procedures are subject to change if the requirements of the law or accrediting organizations change. Where there is conflict between this edition of the Manual and a subsequent notification of a modification to a policy or procedure, the information in the subsequent notification shall prevail.*

*While this manual contains basic information about the Colorado Community Mental Health Services Program, providers are required to fully understand and apply BHO requirements when administering covered services. It is not intended to take the place of either the written law or regulations. We encourage readers to review the specific statutes, regulations, and other interpretive materials for a full and accurate statement of their contents.*

*Whilst every effort has been made to ensure that the guidelines in this Manual are correct and in keeping with accepted standards of practice at the time of publication, the authors cannot be held liable or responsible for any errors or omissions, or for any harm or damage resulting from the use of the information contained in this publication.*

## **Contents**

Chapter I: Introduction and Key Concepts.....	5
Introduction to the Colorado Project .....	5
Project Origin and Purpose.....	5
Please Note – This Document Will Be Frequently Revised & Is Not Meant to Supersede Organizational Policies and Procedures .....	5
Goals and Objectives.....	6
Key Concepts.....	7
Compliance .....	7
Defining Health Care Fraud, Waste and Abuse.....	9
The Difference between Fraud, Abuse, Waste, and Errors .....	10
Scope of Practice.....	10
Clinical Documentation/Medical Record Documentation.....	11
Assessment .....	11
Treatment Plan (Plan of Care, Recovery Plan, Individual Service Plan, Care Plan).....	11
Progress Notes/Progress-to-date Forms .....	12

Treatment Plan Reviews .....	12
Assessment Update .....	12
Medical Necessity .....	12
The Golden Thread.....	14
Chapter 2: Medicare and Medicaid .....	17
Medicare Program .....	17
Medicare Eligibility.....	17
Medicare Benefits.....	17
Medicaid Program.....	18
How Medicaid Works in Colorado .....	19
Colorado Medicaid Mental Health Services.....	20
Medicare and Medicaid Fraud, Abuse and Waste.....	21
CCQC Initiative and Paperwork.....	23
<b>Chapter 3: Recovery-Based Approaches to Treatment .....</b>	<b>25</b>
Traditional Medical Model Shifts to Medical Model Embedded in a Recovery-Based Approach.....	25
Symptom-Based Shifts to Strengths-Based .....	26
Provider as Director Shifts to Provider as Partner.....	28
Curing Illness Shifts to Managing Illness .....	28
Professional Focus Shifts to Social System Focus .....	29
Language Has Meaning.....	29
Language Counts.....	30
Summary .....	31
Chapter 4: Compliance Audits: How Federal and State Auditors Are Enforcing the Rules .....	32
DHHS Office of Inspector General (OIG) .....	32
Medicaid Integrity Program .....	33
Recovery Audit Contractors.....	34
State Efforts and False Claims Act.....	34
Incentives for Auditors.....	36
Anti-Kickback Statute .....	36
Stark Law .....	36
Exclusions from the Medicare and Medicaid Programs .....	37
Corporate Integrity Agreements.....	37

Loss of Licensure .....	38
Federal and State Audits – In Depth Discussion .....	38
Examples of Recent Audits.....	38
2007 – OIG Medicaid Rehabilitative Services Audit in Indiana .....	38
2001 – OIG Medicare Part B Audit of Mental Health Services .....	39
2007 – OIG Medicare Part B Audit of Mental Health Services .....	40
2006 – OIG Audit of Case Management Services in Massachusetts.....	41
2005 – OIG Audit of Adult Rehabilitation Services Program in Iowa .....	42
Chapter 5: Documentation Rules.....	44
Colorado Service Definitions.....	44
Demonstrating Medical Necessity .....	44
Basic Medicaid Documentation Requirements .....	45
The Golden Thread .....	47
Following the Golden Thread in Treatment Plans and Treatment Plan Reviews: .....	49
Following the Golden Thread to the Progress Notes/Progress-to-date Forms: .....	52
Progress Notes/Progress-to-date Forms – Technical Requirements:.....	53
Progress Notes – Content of the Service Provided:.....	54
Signature Requirements for Authorizing/Recommending Treatment on Individual Treatment/Service Plans.....	56
Colorado Compliance Grid and Examples and Problem Lists for Assessment.....	58
Symptom and Function Based Problem List for Adults .....	59
Symptom and Function Based Problem List for Children and Adolescents.....	65
Appendix .....	70
<b>Training Suggestions</b> .....	70
<b>Training Slides</b> .....	70
<b>Grid of Compliance Elements and Examples Colorado Documentation</b> .....	70
<b>BHO Approved Audit Tool (Not available at this time)</b> .....	70
<b>Division of Behavioral Health Audit Tool</b> .....	70
<b>CMS Guide – Medicare Part B Psychiatric Services – Trailblazer</b> .....	70
Other Resources.....	70
<b>Colorado Uniform Services Coding Manual 2011 and</b> .....	70
<b>Covered Diagnosis List in Colorado for Medicaid</b> .....	70



# Chapter I: Introduction and Key Concepts

## Introduction to the Colorado Project

The Colorado Committee for Quality and Compliance (CCQC) is a comprehensive project designed to make Medicaid and Medicare coding, documentation, and compliance easier and more transparent for both provider agencies and Behavioral Health Organizations (BHOs). The Committee is led by members of the Colorado Behavioral Healthcare Council (CBHC) which includes the BHOs and community mental health centers in contract with Mary Thornton & Associates, Inc.

*The CCQC was created to help balance the quality and compliance objectives of state Medicaid and Medicare providers.*

## Project Origin and Purpose

Over the last few years Federal and State oversight agencies have increased their focus and funding for activities designed to identify fraud, abuse, and waste in the federal health care programs – Medicare and Medicaid. These activities include a focus on reviewing claims, both before payment and after payment, to see if the claim should have been paid. Improper payments can be caused by problems with the content of the service described in the documentation as well as by the poor quality of the documentation of the service provided. In order for mental health centers, and other providers, as well as, the BHOs to understand the challenges and opportunities facing behavioral health in this climate, the CCQC was created to help balance both quality and compliance objectives.

## **Please Note – This Document Will Be Frequently Revised & Is Not Meant to Supersede Organizational Policies and Procedures**

This is a work on progress - At the time of the preparation of this guide and initial trainings by the CCQC in the fall of 2011, this guide was still being updated concerning recommendations for service plan signatures and timelines, some services codes are being tweaked in the Colorado Uniform Coding Manual, and we are waiting for interpretation of other Medicaid regulations. As final decisions are made concerning these items and recommendations are made by the BHOs concerning Medicaid, these will be communicated to providers. The most recent version of this guide will be on [www.cbhc.org](http://www.cbhc.org) and we encourage providers to stay up-to-date by visiting this site.

Nomenclature–Different providers and provider organizations may refer to documents and forms by different names but they have the same meaning. This guide is not meant to replace or require naming of forms and processes with new names.

For example - Note that throughout this document the service plan is called by many different names because through Colorado the naming of this plan has evolved. However, the service plan (treatment plan, wellness plan, recovery plan, individual service plan) is the document that authorizes the services for individuals and should not interfere with the principles of recovery and resiliency.

Another example is that the service plan is a required document to be signed by the “licensed practitioner(s) of the healing arts” within their scope of practice and by the client. The new term “licensed practitioner of the healing arts” is in the federal regulations and in Colorado would apply to physicians, nurses, and clinicians trained to develop treatment plans.

Encounters and billing claims - In the capitated mental health system in Colorado, providers submit “encounters” which have all of the required billing information for a “claim.” When providers submit an encounter by paper or into the electronic health record, it is important that they understand this will become a billing claim. As such, it must be accurate, timely, contain all of the necessary information and elements, and support the purpose of the time spent with the client. As understanding concerning these terms evolves, they may be updated in a future document.

Finally, this document does not supersede the policies and procedures of the BHOs or each provider organization, but is meant as a guide for organizations to use to add, delete, or update current policies and to use as a training tool for clinical staff. For example, some Community Mental Health Centers have created an internal billing manual for service documentation purposes and list internal codes to choose from but not the service codes that are referred to as “CPT” or “HCPCS” codes. Because this document refers to the Colorado Uniform Coding Manual, it is not meant to suggest that that is the only guide to use.

## **Goals and Objectives**

CCQC’s goals are to:

- Increase education and understanding of the current enforcement environment
- Help providers and the BHOs differentiate the types of risks they are facing
- Educate providers and the BHOs on the range of risks associated with different types of programs and
- Provide solutions through training, tools, recommendations, manuals, etc.

The CCQC will provide training on compliance risk and program development, medical record documentation, and on services that are high risk for audit findings because they are complex or not well defined. Most training will use a “train the trainers” model to allow the development of training experts in each mental health center. A documentation manual has been developed that includes references for specific regulations affecting the provision of behavioral health services. The Uniform Service Coding Manual is being reviewed and revised to more closely align with the Colorado Health Care Policy and Financing’s expectations, as well as, federal advice and guidance.

Although this document was created to create clarity about Medicaid documentation, it also contains references to the Colorado Division of Behavioral Health (indigent) and Medicare because a client's payer source can change quickly. This guide will help clinicians recognize any needed changes in documentation requirements when this happens.

*State Providers, such as CMHCs, need to implement standards which are based on compliance expectations.*

## **Key Concepts**

In order to fully appreciate the work of the CCQC in developing this manual on medical record documentation it is important to know certain key concepts that provide the foundation for understanding and reducing audit risk in your organizations. Integrating these concepts into the culture of your BHO and Community Mental Health Center (CMHC) is critical to your success as they align with the expectations oversight agencies have for your work. Auditors will look for evidence of organizational implementation and integration of necessary standards which are based in the important ideas communicated through these concepts.

## **Compliance**

The term 'compliance' is associated with both an expectation and a program. As an expectation, compliance refers to the adherence by providers and contractors, as well as those working for providers and contractors, to established standards or requirements mandated by the outside entities which have oversight responsibilities at both the state and federal level for mental health services. These standards may be embedded in law, regulation, written advice and guidance, specific contract requirements, and accrediting agency standards. Depending on the oversight agency, these expectations may involve a broad array of standards (often called "conditions of participation") that cover all aspects of provider or contractor operations including leadership, clinical/medical service delivery, billing, information technology, human resources, medical records, quality of care, and facilities. In addition, the regulations and payer-produced provider manuals will delineate the services that Medicare and Medicaid will pay for – including what the service consists of, who can provide it, where it can be provided, how often, and the duration of the service. The BHOs and the CMHCs are responsible for making sure its employees, contractors, or agents understand these requirements and expectations and then implement the necessary processes and protocols to ensure these expectations are being met.

As a program, The Office of the Inspector General (OIG) for the federal Department of Health and Human Services is one of the primary oversight entities and the primary entity issuing advice on how organizations should develop their internal compliance programs. The OIG strongly suggests agencies providing health care services or contractors, such as the BHO's that pay for health care services using federal Medicare and Medicaid dollars, have a formal Compliance Program. This is a requirement for non-profit organizations with over \$5,000,000 in assets. This program is responsible for determining if the organization is complying with relevant laws, regulations, and rules and where non-compliance is found investigating and implementing a corrective action plan that may involve paying money back for services that should not have been billed. The OIG suggests that the program be based on seven elements



identified in the Federal Sentencing Guidelines. These elements include standards and procedures, oversight, education and training, monitoring and auditing, reporting, enforcement and discipline, and response and prevention.

## **Encounters verses Claims**

When a service is rendered by a CMHC provider to a Medicaid recipient, information regarding that encounter must be submitted to the BHO indicating the type and length of service that was offered. These encounters serve the same purpose as bills (claims) for services and they are reviewed, analyzed and counted in order to determine the monthly capitation rates that will be paid to the CMHCs. Each encounter must be documented in the medical record and be sufficient to support the medical necessity (see definition below) of the service. The service must be signed off by the provider who rendered the service, certifying that what was encountered and documented was actually the service that was provided and that all information on the encounter is correct.

*"I hereby agree to keep such records as are necessary to disclose fully the extent of services provided to an individual under the State's Title XIX plan and to furnish information regarding any payments claimed for providing such services as the State Agency or DHHS may request."*

The following is the provider certification statement required for each billing claim. This certification applies to encounters as well. Although this is not a statement that is seen on each encounter signed by a clinician, this is the language on a background document that is submitted when a claim is sent to a payer.

"I hereby agree to keep such records as are necessary to disclose fully the extent of services provided to individuals or an individual under the State's Title XIX plan and to furnish information regarding any payments claimed for providing such services as the State Agency or Dept. of Health and Human Services may request. I further agree to accept, as payment in full, the amount paid by the Medicaid program for those claims submitted for payment under that program, with the exception of authorized deductible, coinsurance, co-payment or similar cost sharing charge.

**SIGNATURE OF PHYSICIAN (OR SUPPLIER):** I certify that the services listed above were medically indicated and necessary to the health of this patient and were personally furnished by me or my employee under my personal direction.

**NOTICE:** This is to certify that the foregoing information is true, accurate and complete. I understand that payment and satisfaction of this claim will be from Federal and State funds, and that any false claims, statements, or documents, or concealment of a material fact, may be prosecuted under applicable Federal or State laws."

A summary of encounters indicating the services rendered are appropriate is submitted by the BHO to Health Care Policy and Financing (HCPF), which is the State of Colorado's Department responsible for managing the Capitated Medicaid program.

## Defining Health Care Fraud, Waste and Abuse

**Fraud** is knowingly and willfully attempting to falsely obtain money from any health care benefit program. Fraud is distinguished from abuse in that there is clear evidence that the acts



**Fraud** includes obtaining a benefit through intentional misrepresentation or concealment of material facts

**Waste** includes incurring unnecessary costs as a result of deficient management, practices, or controls

**Abuse** includes excessively or improperly using government resources

were committed knowingly, willfully and intentionally or with reckless disregard. Fraud is an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person. It includes any act that constitutes fraud under applicable Federal or State law (42 CFR 455.2).

**Waste** is health care spending that can be eliminated without

reducing the quality of care, such as overuse (prescribing too many antibiotics,) underuse and ineffective use of treatments or medications. It is also the inefficiency in redundant testing, delays in treatment and making processes unnecessarily complex. Waste means overutilization of services, or other practices that result in unnecessary costs. Generally not considered caused by criminally negligent actions but rather the misuse of resources.

**Abuse** is defined as improper actions or billing practices that creates unnecessary costs. This means provider practices that are inconsistent with sound fiscal, business, or medical practices, and result in an unnecessary cost to the Medicaid program, or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care. It also includes recipient practices that result in unnecessary cost to the Medicaid program, such as, provider practices that are inconsistent with sound fiscal, business, or medical practices, and result in an unnecessary cost to the program, or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care.

*Auditors are generally not concerned with the reason for the improper payment; they will want a payback!*

**Improper Payments** result when an inaccurate, incomplete, or non-compliant claim or encounter is submitted to the payer. Improper payments can be the result of fraudulent or abusive activities but many are simply the results of errors or mistakes. Unfortunately an auditor is generally not concerned with the reason for the improper payment. They will want a payback and depending on the numbers of errors may assess penalties or further investigate. In cases where they find a pattern of inaccuracies on the part of the organization or a clinician they may assess individual penalties.

## The Difference between Fraud, Abuse, Waste, and Errors

**Fraud, abuse, and waste** happen when a provider intentionally decides to not comply with rules, regulation and law in their service delivery, documentation, or billing practices. Some examples of fraud and abuse may include but are not limited to; recording more time spent in a session than actually occurred; offering services that are not medically necessary to generate revenue; billing for a more expensive service than was actually rendered; or billing for services that never occurred. Note also that a significant pattern of errors may indicate a deliberate or intentional disregard for the rules, laws and regulation by the provider and could result in a charge of fraud or abuse as well. There is a more in depth discussion about this subject in Chapters 2 and 4.

**Errors** happen when a provider inadvertently makes a mistake in the service delivery, documentation, or billing this would constitute an error. Some examples of errors may include but are not limited to; selecting the incorrect service type for the service rendered; not referencing the treatment plan goals or objectives the individual is working on in the session; or selecting the incorrect time for the service. Errors are usually random and do not have a pattern to them. Often new employees commit more errors than older employees who are more experienced and have incorporated the requirements into their day to day practice.

*Scope of practice is an important concept for payers, who will usually specify who can provide each type of service.*

### Scope of Practice

All service providers (“Practitioners of the healing arts”) must work within the scope of their license or experience and education. An individual’s scope of practice is defined by the state’s licensing laws. For unlicensed individuals it is usually up to the CMHC to determine the types and kinds of services that can be provided based on an individual assessment of competencies and experience as well as regulatory or payer guidance. For example, licensed Medical Doctors, Physician’s Assistants, and Nurse Practitioners scope of practice would include medical and medication services. However, a licensed therapist would not be able to provide these services because they fall outside of the scope of practice for their particular license. Case managers would also not be able to provide these services, even though they don’t have a license that limits what they can do, because they do not have the education or experience to provide medical or medication management services.

Individuals, who are not licensed but are providing therapy or certain other skilled services, may be able to provide these services under the supervision of a licensed professional. Therapy services, for example, could be delivered by an unlicensed provider with a Masters or Doctoral degree in psychology or a related social science field under the supervision of a licensed provider with an LPC, LCSW, LMFT, PhD, or PsyD. However, therapeutic services could not be delivered by a vocational specialist without these educational credentials as they would fall outside of their training and, therefore, scope of practice.

Scope of practice is an important concept for payers. They will usually specify who can provide each type of service in order to ensure the service is provided by someone they have determined has the right education and experience but it is still up to the CMHC to determine if they are competent to provide the service. More about signature requirements for documentation is provided in Chapter 5. Also, each provider organization will have a procedures that further explain who needs to sign which documents and when.

## Clinical Documentation/Medical Record Documentation

All payers require that any service that is billed or encountered be backed up by sufficient and legible documentation in the individual's medical record.

*The only way an auditor can evaluate the quality and accuracy of the service rendered is by what is written in the chart!*

Documentation must describe a service the payer will pay for, must demonstrate that the service was medically necessary, and must meet the payer's requirements for all of the information needed to document the service, for example the credentials of the provider and the location of the service. *The only way an auditor can evaluate the quality and accuracy of the service rendered is by what was written and billed/encountered to support the service.*

Excellent clinical work will not be known to an auditor

unless he or she can read the information that demonstrates that excellence. Clinical documentation must include the following elements and a thorough discussion of each is provided in Chapter 5.

### Assessment

A thorough assessment of the individual's presenting issues must be documented in the record. The assessment includes numerous mandatory elements that are referenced later in this manual. Unless the individual's clinical needs are clearly identified, the treatment may not be determined to be medically necessary and the payer may deny payment. (See definition following for medical necessity.)

#### Components of a Clinical Record:

- Assessment
- Treatment Plan
- Progress Notes
- Treatment Plan Reviews
- Assessment Updates

### Treatment Plan(Plan of Care, Recovery Plan, Individual Service Plan, Care Plan)

A complete, current, and appropriately signed treatment plan is the crux of the documentation requirements. The treatment plan is a "living" document that drives the individual's services and gives clear direction as to the course of treatment. It is living because it changes with the changing needs of the individual. As the individual resolves issues or new issues are identified, the treatment plan should be updated to reflect these changes. The treatment plan specifies the long term recovery Goals and the short term Objectives for treatment that you and the individual have developed together as well as the Interventions the clinician/provider will be using to assist that individual meet to meet their Goals and Objectives. The payer will evaluate treatment plans

to determine whether or not the treatment strategy makes sense given generally accepted standards of practice. The treatment plan serves as the “authorization” for services as well as the road map for providing services.

### **Progress Notes/Progress-to-date Forms**

Progress notes provide snapshots of both the treatment provided and the treatment progress. Payers usually will require a progress note each time a billed/encountered service is delivered. The note must describe the service provided as well as the progress the individual is making towards the identified treatment Goals and Objectives. Each CMHC will have required elements that are needed in the Progress notes based on the form they have adopted. These forms are usually based on the payer’s required elements as well as best practices in documentation of care.

*All payers, Medicaid included, require that **any billed service** be backed up by documentation in the individual’s medical record.*

### **Treatment Plan Reviews**

Payers and some oversight agencies require that treatment plans be reviewed periodically to ensure that the progress the individual is making is sufficient, that the treatment strategy is still appropriate, and that treatment should continue as currently authorized in the plan. The review should occur with the individual and their family, as appropriate, and should be documented in a progress note, updated treatment plan, or on a special form if your agency requires this. These reviews may also need to be signed by a supervisor or licensed professional to ensure that they agree with the analysis and the continuation of services. Most payers require a licensed person to sign off on treatment plans.

### **Assessment Update**

Like treatment plans, payers and certain oversight agencies require that assessments be updated periodically to ensure a formal review of the individual’s current clinical presentation. The Assessment Update provides a review of the presenting issues, the diagnosis, the individual’s continuing commitment to treatment, their current recovery goals, and the need for a specific level of care. The updated assessments and the treatment plan reviews together assist the payer in determining the medical necessity for services.

***Medical necessity** speaks to the cost effectiveness of the service and to the reasonable expectation that the service will result in some improvement in or maintenance of the individual’s health or mental health.*

### **Medical Necessity**

Medical necessity is a concept that payers use to determine if each service rendered by the CMHC will be paid. Payers

determine medical necessity only by reviewing the documentation in the medical record, so it is essential in justifying the need for the service, which in turn supports payment for that service.

Medical necessity is defined differently by different payer entities. The challenge for the CMHC is to understand how each payer views medical necessity and to help providers document so that it is clearly demonstrated. What can make medical necessity definitions difficult is that they encompass all services paid for by the payer including medical services and are, therefore, sometimes hard to relate to the types of services provided in CMHCs. However, most definitions of medical necessity have some common elements and fortunately in Colorado, the current definitions support each other. CMHCs generally use two definitions, one from the state Medicaid agency and one from the Division of Behavioral Health Services, to evaluate documentation and to train providers. Note how the two definitions correlate despite the use of different verbiage. More discussion about medical necessity is provided in Chapter 5 of this manual.

The Division of Behavioral Health defines medical necessity as:

“A covered service that will, or is reasonably expected to prevent, diagnose, cure, correct, reduce or ameliorate the pain and suffering, or the physical, mental, cognitive or developmental effects of an illness, injury or disability; and for which there is no other equally effective or substantially less costly course of treatment suitable for the individual’s needs.”

The Colorado Department of Health Care Policy and Financing defines medical necessity as;

A. A covered service shall be deemed medically or clinically necessary if, in a manner in accordance with professionally accepted clinical guidelines and standards of practice in behavioral health care, the service:

1. Is reasonably necessary for the diagnosis or treatment of a covered mental health disorder or to improve, stabilize or prevent deterioration of functioning resulting from such a disorder; and
2. Is clinically appropriate in terms of type, frequency, extent, site and duration;
3. Is furnished in the most appropriate and least restrictive setting where services can be safely provided; and
4. Cannot be omitted without adversely affecting the Member’s mental and/or physical health or the quality of care rendered.

B. The Contractor, in consultation with the service provider, Member, family members, and/or person with legal custody, shall determine the medical and/or clinical necessity of the covered service.”

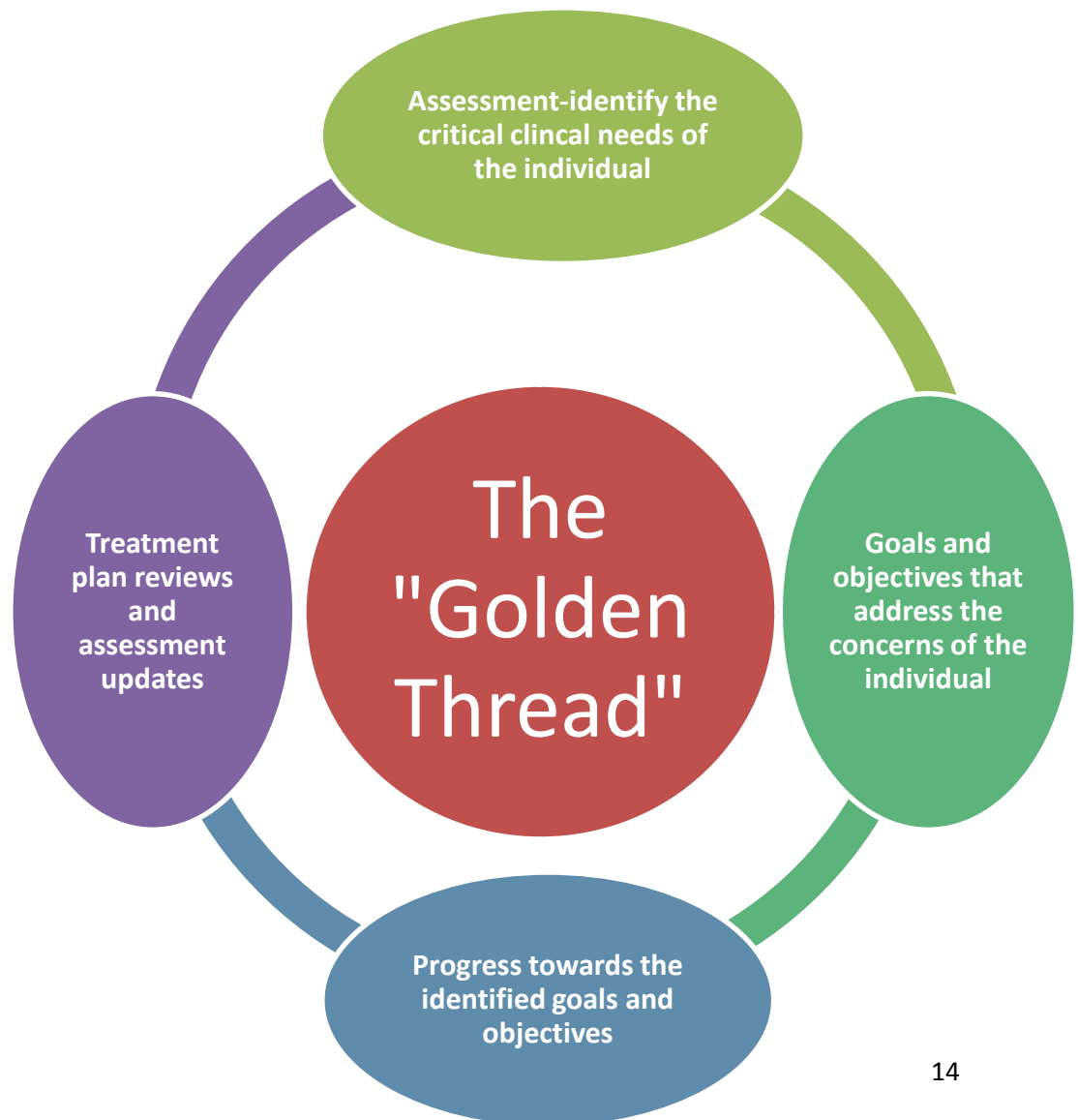
Note how both definitions speak to the cost effectiveness of the service and to the reasonable expectation that the service will result in some improvement in or maintenance of the individual’s health or mental health. Medicare defines "medical necessity" as services or items reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member. Even if a service is reasonable and necessary,

coverage may be limited if the service is provided more frequently than allowed under a national coverage policy, a local medical policy or a clinically accepted standard of practice.

Agency	Service Definition
HCPF	Reasonably necessary for the diagnosis and treatment of a covered mental health disorder to improve, stability or maintenance, clinical appropriate in type, frequency, extent, and duration, furnished in most appropriate and least restrictive setting, and cannot be omitted without adverse affect.
DBH	Prevent, diagnose, cure, correct, reduce or ameliorate the pain and suffering, or the physical, mental, cognitive or developmental effects of an illness, injury or disability; and for which there is no other equally effective or substantially less costly course of treatment suitable for the individual's needs.
Medicare	Reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member. Note to readers – we all agree this does not sound very “strength-based!”

### The Golden Thread

The Golden Thread is a term that references the tying together of all the concepts described above in medical record documentation. Each piece of documentation must flow logically from one to another such that someone reviewing the record can see the logic and understand the story you are telling about the individual's treatment and progress.



The assessment must *identify the critical clinical needs of the individual* based on their presentation and history. The assessment paints the picture of the individual as they present currently and assesses their ability to engage in and benefit from the treatment process.

The treatment plan must reflect Goals and Objectives that address the concerns of the individual as *identified in the assessment*. This is done by the development of measurable, attainable goals and objectives that provide the opportunity for the individual to actively focus on the needs reflected in their assessment in a targeted manner. The treatment plan must be coherent and cohesive in order establish medical necessity. Additionally, new audits have revealed that auditors are reviewing plans from a recovery and strengths-based perspective for content and the required elements. Chapter 3 discusses the concepts of recovery and resiliency further.

The progress notes must flow from the treatment plan by specifically reflecting progress *towards the identified goals and objectives* and the individual's response to treatment as well as describing services that are "authorized" in the plan.

The progress notes tie to the treatment plan reviews and assessment updates which review the progress described in the notes at particular points in time, reiterate needs and goals, and establish the continuing need for services. *Treatment plans may need to be updated* as a result of the treatment plan review or the assessment update if new issues and new strategies are identified and developed with the individual.

Please note that in recognition of the importance of person centered treatment and recovery and resilience in documentation, all of Chapter 3 is devoted to an in depth discussion concerning the importance of building these concepts into the above concepts and forms through the Golden Thread.

In summary, any element done in isolation breaks the Golden Thread and disrupts the logic that should be evident from the documentation of the individual's treatment. This could include:

- Identifying critical clinical issues in the assessment that are not addressed in the treatment plan or specifically deferred to another level of care
- Developing treatment Goals and Objectives that are not individualized based on the assessment or assessment update
- Documenting clinical activities in the progress notes that are not driven by the specific Goals and Objectives identified in the treatment plan
- Failing to update the treatment plan when issues are resolved or new issues are identified or
- Failing to change the treatment strategy and goals when the individual is not progressing.





## **Chapter 2: Medicare and Medicaid**

*Any review of behavioral health documentation requirements requires an understanding of federal and state funded entitlement programs. The goal of Chapter 2 is to provide you, the clinician, with a general understanding of Medicare and Medicaid, and how compliance requirements within those programs have direct bearing on your clinical documentation practices.*

### **Medicare Program**

Medicare is a social insurance program administered by the United States government, providing health insurance coverage to people who are aged 65 and over, or who meet other special criteria or are disabled. Medicare operates similar to a single-payer health care system. The Centers for Medicare and Medicaid Services (CMS), a component of the Federal Department of Health and Human Services (HHS), administers Medicare, Medicaid, and the State Children's Health Insurance Program (SCHIP).

Since the beginning of the Medicare program, CMS has contracted with private companies to operate as intermediaries between the government and medical providers. Contracted processes performed by intermediaries may include claims and payment processing, call center services, clinician enrollment, and fraud investigation. In the state of Colorado, Trailblazers Health Enterprises, LLC., ([www.trailblazerhealth.com](http://www.trailblazerhealth.com)) is the Medicare Administrative Contractor.

### **Medicare Eligibility**

In general, all persons 65 years of age or older who have been legal residents of the United States for at least 5 years are eligible for Medicare and have had income for 40 quarters (3 month equal a quarter.) People with disabilities under age 65 may also be eligible if they receive Social Security Disability Insurance (SSDI) benefits. Specific medical conditions may also help people become eligible to enroll in Medicare.

Many beneficiaries are “dual eligible” meaning they qualify for both Medicare and Medicaid. In those instances, providers should note Medicaid is always the payer of last resort; therefore, services for dual-eligible clients must be billed first to Medicare. Providers must be able to show evidence that claims for dual eligible clients, where appropriate, have been denied by Medicare prior to submission to Medicaid.

### **Medicare Benefits**

Medicare has four parts: Part A is Hospital Insurance. Part B is Medical Insurance. Medicare Part D covers prescription drugs. Medicare Advantage plans, also known as Medicare Part C, are

another way for beneficiaries to receive their Part A, B and D benefits. All Medicare benefits are subject to medical necessity criteria.

The original Medicare program was only Parts A and B. Medicare Part D was new in January 2006; before that, Parts A and B covered prescription drugs in only a few special cases. Medicare does not pay for all of a covered person's medical costs. The program contains premiums, deductibles and coinsurance, which the covered individual must pay out-of-pocket. Some people may qualify to have other governmental programs (such as Medicaid) pay premiums and some or all of the costs associated with Medicare.

## **Medicaid Program**

Medicaid is the United States health program for people and families with low incomes and minimal or insufficient resources. It is a “means-tested” program that is jointly funded by the state and federal governments and is managed by the states. A means test is a determination of whether an individual or family is eligible for help from the government. Among the groups of people served by Medicaid are certain U.S. citizens and resident aliens, including low-income adults and their children, and people with certain disabilities. Poverty alone does not necessarily qualify someone for Medicaid. Medicaid is the largest source of funding for medical and health-related services for people with limited income in the United States.

Medicaid was created on July 30, 1965, through Title XIX of the Social Security Act. Each state administers its own Medicaid program while the federal Centers for Medicare and Medicaid Services (CMS) monitors the state-run programs and establishes requirements for service delivery, quality, funding, and eligibility standards. All states participating in Medicaid must have a single state agency dedicated to the management of the Medicaid benefit. In Colorado this is the Health Care Policy and Financing or HCPF (pronounced hic-puff.)

State participation in Medicaid is voluntary; however, all states have participated since 1982. In some states Medicaid is subcontracted to private health insurance companies, while other states pay providers (i.e., doctors, clinics and hospitals) directly. Some states have incorporated the use of private companies to administer portions of their Medicaid benefits. These programs, typically referred to as Medicaid managed care, allow private insurance companies or health maintenance organizations to contract directly with a state Medicaid department at a fixed price per enrollee. The health plans then enroll eligible people into their programs and become responsible for assuring Medicaid benefits are delivered to beneficiaries.

States vary widely in eligibility requirements, the type and amount of benefits they make available to eligible Medicaid beneficiaries. Likewise there is a wide-range of methods states use to reimburse Medicaid providers. To understand Medicaid reimbursement methods and how those relate to documentation standards, clinicians need to be familiar with the general reimbursement concepts of *fee-for-service* and *capitation*.

In the health insurance and health care industries, Fee-for-service is a reimbursement model where services are paid for separately. Fee-for-service occurs when doctors and other health

care providers receive a fee for each service such as an office visit, procedure, or other health care service.

## Capitation

Capitation is the term used for the payment model the State of Colorado uses to administer most of its community based Medicaid behavioral health services. Capitation refers to an annual set sum (or ‘cap’) of dollars available for each enrolled member in the program to receive all medically necessary behavioral health services.

What do these terms have in common?

- BHO
- PMPM
- CMHC
- HCPF

They all have something to do with **capitation**.

Each CMHC sits within a predefined region or catchment area where Medicaid recipients reside and where a BHO manages the Medicaid dollars. The BHOs are allotted funds for each Medicaid recipient in their region and paid these dollars on a ‘per member per month’ (PMPM) basis by the HCPF. As behavioral health services are rendered for Medicaid recipients the payment for those services are paid on a capitated basis to deliver services to recipients. The CMHCs report all their Medicaid services as encounters (see below) to the BHO who has overall responsibility for program integrity in the region. This model of payment has been in place in Colorado since 1995 and is in contrast to a ‘fee-for-service’ model where a community practitioner provides a service, submits a claim for the service and then receives a check for each service rendered. CMHCs usually have both payment models because of their mix of clients, for example most services paid by Medicare are paid “fee for service”.

Capitation is a different method for paying health care service providers and will be discussed further in this chapter. Basically, in a capitated system, providers are paid a set amount each month for every Medicaid enrolled person assigned to that provider or group of providers, whether or not that person receives care. In return providers are obligated to provide all of the necessary contracted services a member needs and if they are “at risk” the provider would be obligated to continue to provide services even if they cost more than the money the provider is receiving.

## How Medicaid Works in Colorado

In Colorado, Medicaid and the state Child Health Plan Plus (CHP+ - the federal health plan for children) is administered by HCPF. The mission of HCPF is to improve access to cost-effective, quality health care services for Colorado’s low-income families, the elderly, and persons with disabilities. The Medicaid program HCPF is responsible for is called the Colorado Medical Assistance Program.

Colorado’s Medical Assistance Program includes *both* fee-for-service and capitation-based programs physical and mental health. Fee for service is the dominate model for physical health care and capitated programs are dominate for mental health.

- Capitated programs are generally administered by Managed Care Organizations or MCOs. An MCO is a group of doctors, clinics, hospitals, pharmacies and other providers who work together to give Colorado Medicaid members health services. In Colorado, the MCO for capitated Medicaid for mental health is administered by a Behavioral Health Organization (BHO.) Each Community Mental Health Center in Colorado, along with other provider organizations, is in one of the five BHO regions. Medicaid beneficiaries in Colorado can enroll in a managed care organization (MCO) for their healthcare services.
- Other persons are enrolled in “Regular Medicaid”, a phrase used to describe traditional fee-for-service programs that allow Medicaid clients to get physical health care services from any provider that accepts Medicaid clients. In regular fee-for-service Medicaid there is no need for clients to get referrals for care, but doctors are not required to take new patients either. Clients are required to pay the provider a small “co-payment” when receiving services. The co-payment covers for only a portion of the cost of the service; the remaining cost is paid to the provider following claims submission to the Colorado Medicaid fee-for-service fiscal agent Affiliated Computer Services, Inc. (ACS).

## **Colorado Medicaid Mental Health Services**

The Colorado Mental Health Services Program is a statewide managed care program that provides comprehensive mental health services to all Coloradans with Medicaid. In order to have a managed care program for mental health, HCPF requested a federal waiver under Section 1915 (b) of Title XIX of the Social Security Act. The waiver is sent to the federal Centers for Medicare and Medicaid Services (CMS) for approval. The waiver was first submitted in 1995 at the start of the managed care mental health program and has been renewed every 2 years since.

In the Mental Health Program Medicaid members are assigned to a capitated Behavioral Health Organization (BHO) based on where they live. BHOs are responsible for arranging or providing for medically necessary mental health services to clients in their service areas. Regardless of which specific geographic BHO a Medicaid beneficiary is assigned to, all BHOs in Colorado share the following requirements for services to clients:

**Eligibility:** To receive many BHO services, individuals must have a mental health diagnosis that is covered by the program to receive covered services. A list of the covered diagnosis for Colorado is in the Appendix. There are also a variety of service codes available for prevention, early intervention, and assessment that do not require a covered diagnosis. Refer to the area BHO if clarification is needed concerning which service codes require a covered diagnosis.

**Access:** BHOs must have appropriate numbers of providers in locations that allow individuals to access services geographically. Certain services must be available at night, on weekends or even 24 hours per day. And there must be sufficient providers available so that there are not excessive wait times that discourage individuals from requesting treatment.

**Medical necessity:** Mental health services to clients must be reasonable, necessary, and appropriate for the diagnosis or treatment of the client. This is defined in both Chapters 1 and 5.

Covered Services: Covered services are medically necessary services included in the Colorado Medical Assistance Program's State Plan approved by CMS to assist, support and encourage each Medicaid eligible person to achieve and maintain the highest possible level of health and self-sufficiency. The list of actual codes and service descriptions can be found in the Colorado Uniform Coding Standards Manual. A link to the manual and further description can be found in Chapter 5.

Required Services: HCPF mandates certain covered services to be required in the BHO benefit plan. The examples below of required mental health services in Colorado should be recovery-based/strengths-based in orientation.

- Assessment
- Case Management Services
- Crisis and Emergency Services
- Inpatient Services
- Psychiatric Services and Medication Management
- Individual, Family, and Group Therapy
- Psychosocial Rehabilitation
- School-based Services
- Residential Treatment
- Outpatient Day Treatment

Optional Services: In addition to required services, BHOs contracts may also provide additional optional covered services to Medicaid clients. Examples of optional mental health services in Colorado are:

- Vocational and Employment Services
- Intensive Case Management
- Recovery Services
- Assertive Community Treatment
- Respite Services
- Drop-In Centers and Clubhouse
- Peer Services and Support
- Prevention and Early Intervention Services
- Residential Treatment

Cost: There are no co-pays for Medicaid capitated mental health services. However, Medicaid clients with other insurance must use that insurance first before using Medicaid benefits.

## **Medicare and Medicaid Fraud, Abuse and Waste**

Medicare and Medicaid are big business. National expenditures grew in 2009 to 17.6% of gross domestic product for a total of \$2.5 trillion. Medicare in that same year accounted for 20% of health expenditures or \$502.3 billion. Medicaid grew 9% to \$373.9 billion or 15% of the total.

Medicaid costs also represent a significant part of Colorado's annual budget and have expanded rapidly during this period of poor economic growth.

## Fraud and Abuse Laws

- False Claims Act
- Anti-Kickback Statute
- Physician Self-Referral Statute
- Exclusion Statute
- Civil Monetary Penalties Law



Given the size, scope and costs associated with Medicare and Medicaid it is not surprising that the government closely regulates the services and costs of the program. It is also not surprising that the government has established systems to identify faulty or fraudulent billing practices. Centers for Medicare and Medicaid (CMS), the Department of Justice, the Food and Drug Administration, the FBI, the postal service and other federal and state agencies have investigators who look for fraud, abuse and waste. Fraud is a general term that refers to an individual or corporation that seeks to collect Medicare

health care reimbursement under false pretenses. There are many different types of Medicare fraud, all of which have the same goal: to bilk money from the Medicare program.

Fraud is defined differently by different laws governing healthcare but most people believe that to be involved in fraud you have to knowingly do something wrong. However, in some instances the government does not need to show that you intended to commit fraud if it can show that you were very negligent or recklessly disregarded the rules.

The Medicare and Medicaid programs are a target for fraud because they are based primarily on the "honor system" of billing. Medicare and Medicaid were originally set-up to help honest doctors who helped the needy with medical services. In the Medicare and Medicaid claims adjudication process, there are few safeguards to eliminate false claims. In fact, claims are paid automatically because the goal of Medicare and Medicaid is not to root out false claims, but to pay claims and providers quickly and smoothly.

As mentioned in Chapter 1 and as a reminder because this is important, some typical examples of healthcare fraud are:

- **Phantom Billing:** The medical provider bills Medicare/Medicaid for unnecessary procedures, or procedures that are never performed; for unnecessary medical tests or tests never performed. For example, a case manager goes out to meet with the patient who "no shows" but bills for the service anyway as if it had taken place.
- **Patient Billing:** A patient who is in on the scam with a fraudulent provider allows the provider or another individual to use his or her Medicare/Medicaid number in exchange for kickbacks, but never receives medical services. The provider bills Medicare and the patient is told to admit that he or she indeed received treatment. For example, a psychiatrist adds names of patients no longer receiving services to their current list of open patients and bills for services.

- **Upcoding:** In this type of activity, the provider inflates diagnoses and billing by using a billing code that indicates the patient received more expensive procedures than what the patient received. For example, a provider bills for 40-50 minutes of therapy when they only provided 15 minutes. Another example is providing more services than are necessary. In this activity the patient receives services they do not need or more of a particular type of service than they need. For example, a patient is stable and has no additional need for therapy services, but the patient wants to continue and therapist continues to see them or is a provider who has not been trained or does not have the required education provides a service they are not qualified to provide. For example, psychotherapy services are provided by someone who is not trained in psychotherapy.

In addition to looking for fraud, abuse and waste in the Medicaid and Medicare systems, investigators and auditors are also looking for **“improper payments”**. These result usually from errors made by the provider or the billing department and include both technical and content errors. For example, Medicaid and Medicare both have requirements for the elements that must be included in the documentation of a service. Elements such as the name of the service, the amount of time it took, the name of the rendering provider, the date of the service, and others are technical requirements. If these are missing from the bill or encounter they would result in a denial of the service and the service would be denied before being paid. However, if the claim has all the required information but the back-up progress note does not, an auditor can come in even years later and request that the money paid for the service be returned for incomplete documentation.

Services can also be denied as improper payments if the progress note does not adequately describe the service that was billed or how the service is related to the treatment plan or for other reasons having to do with the content of the service. These improper payments will also require the provider to payback any monies received.

## **CCQC Initiative and Paperwork**

In summary, this manual is intended to provide guidance to providers about “improper payments” by explaining both the technical and the content requirements for general Medicaid and Medicare documentation. Each service type will have some variation in content and that information is included in the Colorado Uniform Coding Manual. There is no magic bullet. There is no perfect formula for avoiding an audit denial for paperwork that does not meet the payer’s standards, however, there are general rules that are relatively easy to follow.





## Chapter 3: Recovery-Based Approaches to Treatment

In February of 2001 President George W. Bush announced his New Freedom Commission on Mental Health. This commission set out to accomplish six goals. The first two of them were:

*Americans understand that mental health is essential to overall health and that mental health care is individual and family driven.*

*Their vision statement was, “We envision a future when everyone with a mental illness will recover, a future when mental illnesses can be prevented or cured, a future when mental illnesses are detected early, and a future when everyone with a mental illness at any stage of life has access to effective treatment and supports - essentials for living, working, learning, and participating fully in the community.”*

It is important to note that the regulatory agencies in Colorado that monitor mental health care are committed to the recovery model as expressed by the National Consensus Conference on Mental Health Recovery and Mental Health Systems Transformation (December 2004.) It is the expectation that contractors and providers will demonstrate commitment to the recovery models for adults and the corresponding resiliency model for children/youth throughout all aspects of service development and delivery. These agencies recognize that recovery must be highly individualized and support individual empowerment along with community reintegration and normalization of the life environment. It is the goal that individuals are fully in charge of their lives and recovery includes the individual and family, as appropriate, in decisions from treatment planning to resources planning.

Although regulatory agencies in Colorado support the concept of recovery and resilience, there are still required elements to insure appropriate documentation of each encounter or claim. Many of these claim structures are built on a medical model of billing (for example, strict adherence to definitions for service codes and what practitioner of the healing arts is allowed to provide which service.) In order to understand the impact of health care reform on clinical documentation, it is important to consider changes in the regulatory environment for the behavioral health field and the evolution of behavioral health from a traditional medical model to a medical model embedded in a recovery-based approach to care. This change has impacted the manner and focus of documentation. Let’s examine some of these concepts and how they affect documentation.

### **Traditional Medical Model Shifts to Medical Model Embedded in a Recovery-Based Approach**

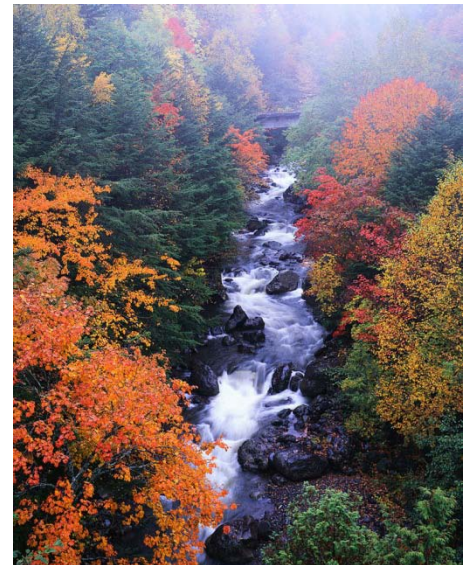
In a traditional medical model some years back, mental health issues were treated only as a disease that needs to be cured or managed. The primary focus of intervention, as is typical in a disease-based model, was on the physical pathology presented. Elimination or reduction of

symptoms (where elimination is not possible) was the goal of treatment; a causation and then mitigation approach. Recovery under this model was often not possible as many individuals with mental illness remained symptomatic at least episodically. They were then considered to be chronically ill with expectations lowered and treatment focused on maintenance. In the traditional medical model treatment plans were developed by “experts”- usually licensed mental health professionals who then oversaw the implementation of “their” plans and then evaluated their effectiveness, often without input or sufficient input from the individual or families.

The recovery-based approach had dramatic impact on the traditional medical model. In recovery-based models the individual with a mental illness goes into treatment with the assumption that recovery is the norm and is to be expected. Skill development and access to resources becomes a much greater focus with eliminating the impact of a particular symptom or improving the person’s ability to function as goals of treatment and rehabilitation services. This new model for treatment has evolved beyond the former philosophy of viewing the patient as a diagnosis that needs to be treated.

The recovery-based approach is person centered treatment. The “patient” is viewed as a person who has every right and ability to participate fully in developing their own treatment plan and goals. The person seeking treatment is viewed as a competent individual fully capable of collaborating in their care throughout all phases of treatment such as planning, implementation, and termination of treatment. The therapist increases the individual’s knowledge of mental illness and helps them to become the experts in their own wellness and recovery management. Recovery plans are formulated by the individual with identification of treatment interventions and also the supports and strengths the individual agrees to use in their continuing process of recovery.

There are still remnants of the medical model in recovery-based treatment, such as, the requirements by payers that licensed mental health professionals still be involved in the development of treatment/recovery plans. They must still sign them, oversee their implementation and evaluate their effectiveness. But this is now done in conjunction with the individual as partner. The mental health professional is the expert on the mental health system and how it might best help the individual. The individual is the expert on themselves and this is now, in recovery models, regarded as a very highly valued expertise in developing and implementing recovery planning.



## **Symptom-Based Shifts to Strengths-Based**

In the traditional medical model of treatment, services were based on symptoms presented by the patient that led to a diagnosis based upon those symptoms. The diagnoses were developed by those who, according to the state, had the required education and experience to do so. Treatment

was focused on the symptoms the patient presented in much the same way that a medical doctor would focus on alleviating the physical symptoms of their patients. The focus of treatment in mental health was the individual and their intra-psychic processes. The patient's symptoms were seen as the result of some type of aberrant process in their psyche. The symptoms were the result of a mental "illness" much as a high fever might be the result of an infection. The traditional treatment model was based on symptoms or problems with little, if any, focus or use of the strengths of the individual.

The recovery model emphasizes the individual's strengths rather than just their symptoms, deficiencies or problems. Being strengths-based begins during the assessment phase of treatment where the individual along with friends, family and the treatment team should begin to develop the list of the individual's strengths, talents and resources and discuss how they might be used to help build recovery. The development of strengths lists helps focus the individual on the fact that everything is not bad and pushes the provider to incorporate the whole person, not just the problems or symptoms in their assessment and planning activities.

A "strength" is not the absence of a problem. Strengths include resources, support systems, abilities, accomplishments, motivation, likes, physical and mental health, coping skills and personality traits. There is a list of strengths at the end of this chapter. A strengths-based approach should be reflected in the language of the treatment plan and not just the assessment. In a traditional medical model a provider might write for a goal: "The patient will remain medication compliant for three months." In the recovery models of care, the focus would be on what will happen next. For example, if the individual and their doctor are able to agree on an effective medication regimen that is acceptable in terms of its effects on symptoms as well as side effects what would happen next? Would the individual be able to go back to school, develop a social support network, successfully manage a transition that is upcoming, etc? The person's life goal for themselves becomes incorporated into the planning process and is used as an outcome measure to focus treatment.

Strengths-based treatment goes well beyond just identifying strengths of the individual. Those strengths must be used in the treatment plan. They are vital elements in how the individual will cope with the barriers to success that he or she faces. Every goal and objective should have at least one corresponding strength that the client can use in accomplishing it.

Because of payer demands that parts of the medical model still be used in recovery-based treatment, it will be important to make sure that any goals or objectives adhere at least partially to medical model outcomes. In the example above, the life goal on the treatment plan might read: "I will go back to school and graduate from college." However, because the individual might need all sorts of help to go back to college and graduate, most payers expect the mental health system to focus on a goal that delineates our role in the ability of the person to achieve their life goal. In that case, we might write a treatment goal as well. For example, "the individual will be able to manage their symptoms so that they can successfully manage college level educational demands." In this way we remain focused on the life goal of the individual, but have limited our involvement for payment purposes to helping the individual identify and then eliminate, reduce, cope and manage those symptoms that are creating barriers to their recovery.

## **Provider as Director Shifts to Provider as Partner**

In the Traditional Medical Model, the provider was viewed as the expert in deciding how the symptoms would best be treated. The patient was more of a passive recipient of the treatment methods of the provider. To be sure, the patient presented the material through which the provider worked, but the provider did the interpretation of what was significant and how it should be handled. The provider suggested healthy ways to handle the symptoms the patient brought up and used the therapeutic techniques he or she had been taught to increase the patient's insight into the root cause of their distress or provided an accepting atmosphere in which the patient could gravitate toward better mental health through the warmth and understanding the provider projected.

In the recovery based approach, the process shifts from a provider driven to an individual driven process. The provider becomes more of a partner and the individual assumes a major responsibility for treatment. Each individual charts their own course to recovery rather than a standard treatment approach based on diagnosis or symptoms. The individual defines the goals rather than the provider. The provider teaches the individual the necessary skills and knowledge to manage their recovery process and helps them identify coping techniques that they are willing and able to use in their recovery. The barriers to success are identified and strategies are developed to deal with these barriers.

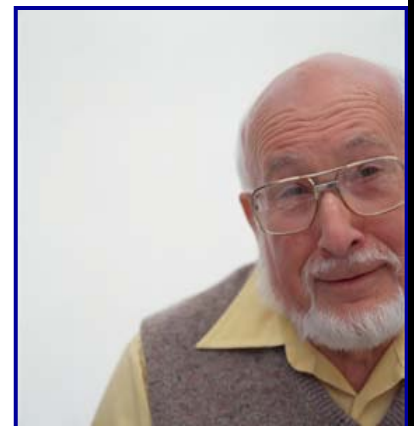
## **Curing Illness Shifts to Managing Illness**

In the traditional medical model the focus was on curing the underlying condition. The theory was the symptoms would go away if the underlying condition was "cured". The provider made the decision as to what the underlying condition was that needed to be treated: the real problem. The alleviation of the symptoms of this underlying problem was merely a step along the way to cure of the causative mental illness.

The recovery-based approach shifts the focus of care from professionally directed management of acute episodes of symptoms to client directed management of long term recovery.

- Treatment is seen not as eliminating all symptoms of the mental illness but giving the individual the skills and confidence to manage their condition on a long term basis.
- This involves having a treatment plan developed by and for the individual with strategies to promote and maintain health.
- Recovery emphasizes the resiliency of the individual and their strengths and abilities to manage their life rather than the professional's ability to alleviate symptoms.
- The provider's job shifts to helping the individual identify their own resources and how to use them in challenging situations that may arise.
- The reliance is more on the individual and less on the professional community.

The effect of this focus on assisting the individual in managing their life is to normalize or de-stigmatize living with a mental illness. Every individual has to manage their life and work on



their life goals taking into consideration the strengths and resources they have. All people face challenges along the way whether they may be physical limitations, financial difficulties or emotional challenges.

## **Professional Focus Shifts to Social System Focus**

In the traditional medical model the professional is emphasized as the expert to cure and manage illness. As treatment has moved into a strengths-based and recovery-oriented system, the individual's place in the broader social system and the individual's attributes are emphasized as the keys to treatment. The culture and unique strengths and situation of the individual must be considered and incorporated into their treatment plan. Culture could be defined as the shared values, beliefs and behaviors of certain people who identify themselves as a group perhaps through similar ethnicity, gender, class or other shared characteristics. Culture affects the way people view, respond to and accept treatment. Culture is a two-way street. The culture of the individual effects treatment and the culture of the service provider also effects treatment.

Culturally competent treatment involves an understanding of the way in which various factors such as gender, race, ethnicity, age, disability, language, sexual orientation, religious beliefs, and social class effect treatment. The way in which individuals are approached may vary depending upon these factors. The type of interventions utilized may vary depending upon these factors. Cultural competence, like being strengths-based, begins in the assessment phase of treatment, cultural issues need to be identified in the assessment, and then addressed in the treatment plan.



## **Language Has Meaning**

Language is important. In a medical model the provider works with a “schizophrenic” while the strength based provider works with a person who has schizophrenia (“person first” language.) The diagnosis does not define the person. In recovery based treatment models, the provider uses the individual's language as much as possible. Goals are stated in the individual's own words and operationalized to be observable and measureable. The language of the plan is understandable to all participants. Deficit based language is replaced by strength based language. Promoting recovery advances a different mindset than preventing relapse. “Professional language” can subtly convey unintended messages to the individual leading them to limit their options.

## Language Counts

<b>Deficit-based language</b>	<b>Strengths-based, Recovery-oriented alternative language</b>
A schizophrenic, a bipolar, a crack addict, a substance abuser	A person diagnosed with Schizophrenia who experiences delusions or hallucinations. A person diagnosed with bipolar disorder who experiences rapid changes in mood and behavior. A person diagnosed with an addiction to crack cocaine. A person whose substance use interferes with their life.
Suffering from	Working to recover from; experiences; living with
High functioning vs. low functioning	A person is able to function well in most activities of daily living, despite the presence of mental health symptoms VS limited or impaired ability to function that interferes with activities of daily living due to mental health symptoms
Acting out	Individual prefers to use alternative strategies to deal with emotions (swearing at peers or throwing things at staff)
Denial	A person who disagrees with diagnosis or that they have a mental illness. A reluctance to acknowledge stigmatizing designations is not unusual.
Resistant	Individual is not open to.... Chooses not to.....Has their own ideas about what may be helpful.
Unmotivated	Individual is not interested in what a program has to offer; interests and motivating incentives unclear.
Weaknesses	Areas to address in treatment; possible barriers to change.
Manipulative	A person is resourceful; seeking support; or trying to get help.
Entitled	Individual is a strong self-advocate and aware of one's rights.
Lack of insight	A person struggles with having a clear and realistic picture of themselves and their behavior.
Failure	Individual has an opportunity to develop and/or apply new strategies and coping skills OR individual has chance to draw meaning from managing an adverse situation.
Dysfunctional	A person experiencing challenges in managing the functions of daily life or a particular domain of functioning like family life.
Baseline	What a person looks like when they are functioning as well as possible for them.
Non-compliance	Individual who prefers alternative strategies. Pre-contemplative to proposed changes and strategies recommended.
Danger to self, others or gravely disabled	Describe current behaviors that renders a person a danger to self/others.
"Owns" a client	Client is able to makes choices about where to receive services for which they are eligible.

Adapted from: Tondora et al., (2007) Yale University School of Medicine Program for Recovery and Community Health. New Haven, CT

## Summary

Recovery-based treatment views the individual not as a mental illness or a set of symptoms but as a unique individual with needs and goals that can be addressed through evidenced based therapeutic techniques using the natural resources and strengths identified in the assessment. Whereas social isolation might be a symptom of the person's mental illness, their relationship with their sister might be used to help them accomplish their goal of feeling more connected to people. Feelings of worthlessness might be addressed through using the person's affiliation with a church to get them involved in volunteer work. The entirety of the person's life situation is taken into consideration when composing and following through with the treatment plan. For providers this is an exciting time.

Recovery-based models, where embraced, are working. The provider is able to think outside the box and not be restricted to a very small toolbox of traditional interventions or goals. At the same time, however, it is important to remember that the payer is a medical insurance program with many regulatory requirements. As such they need to understand the medical necessity of provided services and how the provider's expertise is needed and is being applied to help the individual reach their recovery goals. This expertise and medical necessity should be evident in the assessment, the development of a reasonable and articulate plan of recovery, and in the progress notes. Recovery-based models are not diminished by their reliance on mental health experts to help guide the process.



## Chapter 4: Compliance Audits: How Federal and State Auditors Are Enforcing the Rules

Given the size and scope of Medicare and Medicaid programs in the United States, it should come as no surprise that the government is making massive investments in fighting waste, fraud and abuse. The new audit environment is complex, multi-layered, and continuously changing as government payers at the state and federal levels look for new and better ways to protect health care services from providers unwilling or unable to follow the rules. While the various compliance entities are too numerous to mention in this training manual, a few key enforcement and oversight programs are defined below. Also, further in this chapter are examples of recent audits of mental health providers and the results to help us better understand the scope and elements auditors are reviewing.

### DHHS Office of Inspector General (OIG)

This office is located within the Department of Health and Human Services and is responsible for the integrity of all of the programs within that department including the Centers for Medicare and Medicaid Services. The OIG has recently been given millions of dollars to specifically review Medicaid services.

Health care fraud  
is a serious problem



The OIG works each year from an Annual Work Plan that details their areas of interest, potential fraud, and presumed high risk. Behavioral health has had a prominent place in the last several work plans of the OIG and will likely continue to be a target from some time.

In the event OIG initiates an investigation in Colorado, providers can expect auditors will ask the following questions when auditing Medicaid chart documentation:

- Are services medically necessary?
- Are services covered by the member's Medicaid benefit plan?
- Are documents accurate, thorough, and were they completed timely as defined by regulations?
- Do records describe how services are being directed to the exclusive benefit of the member? For example a mother and father cannot receive couples therapy if the child is the member of the benefit plan.
- Do records indicate quality care was provided?
- Was the appropriate amount, type, frequency and duration of services provided? Is there evidence to indicate too few or too many services provided based on medical necessity criteria?

- If case management was provided, was medical necessity established and case management authorized in the service plan?
- Does case management meet one of the four required activities contained in the Deficit Reduction Act which are assessment, development of care plan, referral to services, and monitoring and follow-up activities?
- Does the organization have an active compliance program?

OIG audits can result in very high fines, penalties, and possible exclusion of individual providers and whole agencies from the Medicaid and Medicare programs. A number of behavioral health organizations have been involved in OIG audits and in some cases an entire state's behavioral health programs have been audited simultaneously. The state of Indiana had to payback over \$22 million dollars for community mental health services that did not meet requirements for documentation including missing progress notes, missing treatment plans, and incomplete records.

*The state of New York was recently asked to payback over \$200 million for problems with medical necessity in its residential programs.*

*The state of Iowa had millions in paybacks for its mental health rehabilitation services for both adults and children.*

*In each of these situations individual providers were referred to the Medicaid Fraud Control Units within the state and or were targeted for additional audits. These audits result in such huge paybacks because the error rate that is found in the sample of claims audited is applied to the entire population of claims that are being audited or have been paid.. This is called extrapolation. For example if a 1% error rate was found in a sample of 100, then that same 1% error rate could be applied to all of the claims (let's assume there were 1,000 claims submitted altogether.) It is assumed that the error rate would remain constant even if all 1,000 claims were audited so this is what would be expected in a payback. Most audits are retrospective and can go back up to 5 years or more depending on findings.*

## **Medicaid Integrity Program**

Within the Department of Health and Human Services the Center for Medicare and Medicaid Services is the new Medicaid Integrity Program. This program is similar to one on the Medicare side where private contractors are hired to audit both provider organizations and states. The primary purpose of these auditors is not primarily to identify fraud and abuse but rather it is looking for payments that, once the medical record has been examined, should not have been made. These "improper payments" are also resulting in very large paybacks by providers as the same technique of "extrapolation" described above. MIP auditors use data mining technology to analyze and identify patterns and indicators of overpayment. Providers determined to have received overpayments are subjected to financial paybacks and billing reductions. The Medicaid Integrity Program is not publishing its results but see below for an example of how an extrapolated audit can affect the requested payback:

A New York provider of community mental health services was audited. A random sample of 100 claims was chosen out of the population of claims submitted for the year being audited. These 100 claims totaled about \$21,000 in payments the agency had already received from Medicaid. The auditors found that 65 of the claims had errors (some more than one) that resulted in an improper payment. The error rate of 65% was then applied to the entire population of claims being audited and the provider was asked to pay back over \$6 million.

## **Recovery Audit Contractors**

“RAC” auditors are privately contracted “bounty hunters” who are paid a fee based on the amount of federal overpayments and improper payments they discover. The term bounty hunter was actually applied to them by the federal government who inserted provisions for Medicaid RAC auditors in the health care reform law. They are private companies hired by the government for their exceptional data-mining abilities and their broad based audit capabilities. Data-mining is used to focus on certain patterns of practice or geographic areas where costs are higher than the norm. They then identify providers who might fit their profile and go in and audit. While their efforts have been loudly criticized by providers, the payers appear to believe that they are a successful investment to bolster oversight activities in both the Medicare and Medicaid programs.

RAC auditors use the same extrapolation methodology as other federal auditors. They are supposed to look for both over and under payments, but it is difficult to find a provider who was cited for not billing enough and was allowed to collect from the Medicaid or Medicare program.

## **State Efforts and False Claims Act**

In addition to enforcement and oversight efforts at the federal level, states are now becoming more aggressive in their own oversight efforts. One of these efforts by many states is to develop a False Claims Act statute that is similar to the federal law.

This law is quite powerful because of the following:

- Establishes civil penalties for having “deliberate ignorance” or “reckless disregard” with respect to fraud, abuse, and waste. This is a lower level of intent than that required in criminal laws where they must prove an individual knew that they were committing fraud.
- Whistleblower provisions that allow for individuals to share in any government recoveries from an investigation.
- Can be used for quality of care as well as for false claims
- Severe monetary penalties for persons and organizations found guilty of violations.

Many states currently have their own version of False Claim Act written into state law. There is an incentive to do so. If a state investigates a provider using its own state's False Claims Act, the state can keep a larger percentage of the recovery. Given the cost savings regulators can achieve through oversight and enforcement, it's not unreasonable to expect Colorado and many other states will follow suit.

Under the federal False Claims Act, any person or entity that knowingly submits a false or fraudulent claim for payment, knowingly using a false record or statement to obtain payment on a false claim or conspires to defraud the United States Government by getting a false claim paid is liable for significant penalties and fines. The fines include a penalty of up to three times the Government's damages, civil penalties ranging from \$5,500 to \$11,000 per false claim plus the costs of the civil action against the entity that submitted the false claims. Criminal fines can be up to \$25,000 and/or up to 5 years imprisonment. Generally, the federal False Claims Act applies to any federally funded program. The False Claims Act applies, for example, to claims submitted by healthcare providers to Medicare or Medicaid. The False Claims Act is the chief enforcement tool used by the government today.

One of the unique aspects of the federal False Claims Act is the "qui tam" provision, commonly referred to as the "whistleblower" provision. This allows a private person with knowledge of a false claim to bring a civil action on behalf of the United States Government. The purpose of bringing the qui tam suit is to recover the funds paid by the Government as a result of the false claims. Sometimes the United States Government decides to join the qui tam suit. If the suit is ultimately successful, the whistleblower that initially brought the suit may be awarded a percentage of the funds recovered.

The federal False Claims Act also contains a provision that protects a whistleblower from retaliation by his employer. This applies to any employee who is discharged, demoted, suspended, threatened, harassed, or discriminated against in his employment as a result of the employee's lawful acts in furtherance of a false claims action. The whistleblower may bring an action in the appropriate federal district court and is entitled to reinstatement with the same seniority status, two times the amount of back pay, interest on the back pay, and compensation for any special damages as a result of the discrimination, such as litigation costs and reasonable attorney's fees.



The State of Colorado has not adopted any false claims acts or statutes that contain qui tam or whistleblower provisions that are similar to those found in the federal False Claims Act. It has, however, adopted a generally applicable Medicaid anti-fraud statute that is intended to prevent the submission of false and fraudulent claims to the Colorado Medicaid program (C.R.S. 25.5-4-304 & 305). The statute makes it unlawful for any person to make a false representation of material fact, present a false claim for payment or approval, or present a false cost document in connection with a claim for payment or reimbursement from the Colorado Medicaid program. Violations of the Colorado anti-fraud statute are civil offenses and are punishable by significant monetary penalties.

## **Incentives for Auditors**

For some auditors who are private contractors there are monetary incentives for audit recoveries. For example, RAC auditors that are currently working in Medicare and will shortly move to Medicaid get paid a percentage of what they recover. A new law in 2010 now requires all federal agencies to consider using contracted and incentivized auditors.

In addition a percentage of whatever the Department of Justice or the OIG recovers from providers and suppliers goes back into a trust fund to allow the government to hire more auditors.

Is it worth it? The government thinks so and right now they claims to be getting (depending on who is divulging this information) \$5-\$10 return for every dollar spent. This is an incredible return on investment and we can expect that the government will continue to invest in auditing but also preventative and educational measures until this return is no longer attractive. Because return on investment is so important, many experts believe that this will lead auditors to look at small providers as well as the large providers in order to continue to produce high returns.

## **Anti-Kickback Statute**

The Anti-Kickback statute prohibits anyone from purposefully offering, soliciting, or receiving anything of value to generate referrals for items or services payable by any Federal health care program. If proof of improper intent is found criminal and civil penalties may be imposed. Criminally, the referral source may be charged with a felony and receive imprisonment of up to 5 years and/or a fine of up to \$25,000. Civilly, a violation of the Anti-Kickback Statute constitutes a false claim under the Civil False Claims Act and carries the same penalties of that Act.

## **Stark Law**

Section 1877 of the Social Security Act (the Act) (42 U.S.C. 1395nn), also known as the physician self-referral law and commonly referred to as the "Stark Law":

- Prohibits a physician from making referrals for certain designated health services (DHS) payable by Medicare to an entity with which he or she (or an immediate family member) has a financial relationship (ownership, investment, or compensation), unless an exception applies.
- Prohibits the entity from presenting or causing to be presented claims to Medicare (or billing another individual, entity, or third party payer) for those referred services.
- Establishes a number of specific exceptions and grants the Secretary the authority to create regulatory exceptions for financial relationships.

Violations of Stark can result in civil penalties, denial of payments for the services provided in violation of Stark, and exclusion from participation in Medicare, Medicaid, or any other federal healthcare program.

## **Exclusions from the Medicare and Medicaid Programs**

In addition to all the other penalties mentioned above, the health care provider is subject to expulsion from the Medicare and Medicaid programs. 42 U.S.C. 1320a-7(a)(3) provides for mandatory exclusion upon a felony conviction of fraud in connection with the delivery of health care items or services, or with respect to any act or omission in a government health care program. No payment will be made by any Federal health care program for any items or services furnished, ordered or prescribed by an excluded individual or entity. This payment prohibition applies to the excluded person, anyone who employs or contracts with the excluded person, any hospital or other provider for which the excluded person provides services, and anyone else. The exclusion applies regardless of who submits the claims and applies to all administrative and management services furnished by the excluded person. Such exclusion from participation is for a period of not less than five years.

Federal health care programs include Medicare, Medicaid, and all other plans and programs that provide health benefits funded directly or indirectly by the United States (other than the Federal Employees Health Benefits Plan). For exclusions implemented before August 4, 1997, the exclusion covers the following Federal health care programs: Medicare, Medicaid, Maternal and Child Health Services Block Grant, Block Grants to States for Social Service, and State Children's Health Insurance programs. Also, 42 U.S.C. §1320a-7(b) provides for the permissive exclusion of a provider for a conviction relating to the obstruction of an investigation; submitting claims for excessive charges that do not rise to the level of fraud, failure to disclose statutorily required information and failure to provide required access to records. Such exclusion is for a minimum of three years.

*One of the most potent weapons in the prosecutor's arsenal, however, is the power to suspend and withhold a provider's payments under Medicare upon indictment or other reliable evidence of fraud. Under 42 C.F.R. §405.370 and 42 C.F.R. §405.370 such payments can be suspended without a hearing once the prosecutor has obtained an indictment. As a result, the government is able to exert tremendous pressure on health providers it has targeted.*

## **Corporate Integrity Agreements**

Corporate Integrity Agreements (CIAs) have become one of the most common tools utilized by the OIG for imposing indirect financial penalties on organizations as retribution for past inappropriate actions and as a safeguard against future inappropriate actions. The OIG negotiates CIAs with health care providers and other entities as part of the settlement of Federal health care program investigations arising under a variety of civil false claims statutes. Providers or entities agree to the obligations and, in exchange, the OIG agrees not to seek their exclusion from participation in Medicare, Medicaid or other Federal health care programs. In general, these agreements require the provider to audit their claims submitted to federal or state health care programs, develop written documents to support compliant billing practices, train

employees and contractors on appropriate and inappropriate actions, implement compliant practices for providing and billing for services and report back to the OIG on these requirements.

## **Loss of Licensure**

The Colorado Department of Regulatory Agencies (DORA) has authority to discipline licensed practitioners including permanent suspension of one's license if the practitioner commits abuse of health insurance pursuant to CRS 18-13-119.

## **Federal and State Audits – In Depth Discussion**

Federal and state audits can provide a lot of detail regarding payer expectations and helps to clarify some of the regulatory requirements. They also reveal some of the challenges provider agencies face regarding alignment with expected guidelines and requirements. Auditors focus on many issues but in behavioral health have so far focused on required documentation to justify the services rendered, the qualifications of staff that provided the services, the eligibility of the beneficiary for the services provided, and compliance with technical requirements including start and end times, signatures, current treatment plans ordering the service, etc. Deviations from the guidance around these factors create target areas for auditors to investigate which can lead to adverse outcomes.

The published audits are easy to read. They include information on the legal basis for payment, given some history of the government insurance program and then describe how they determined what to review and what they actually found. Although many of these audits are 20 to 40 pages long, for providers usually about 5 pages of them are relevant for understanding the auditor's point of view.

All of the audits described below can be found on the website of the Office of the Inspector General for the federal Department of Health and Human Services. They conduct many of the federal audits. Their website is [hhs.oig.gov](https://www.hhs.oig.gov) and the audits can be found by using the search function under the Reports and Publications tab. Enter the name of the state, behavioral health or the number listed after the report in the titles that follow.

## **Examples of Recent Audits**

### **2007 – OIG Medicaid Rehabilitative Services Audit in Indiana**

*"Review of Medicaid Community Mental Health Center Provider Services in Indiana," (A-05-05-00057)*

Indiana elected to include optional Medicaid coverage for medical or remedial "rehabilitative services" that are provided by community mental health centers (CMHC) in an individual or group setting.

In the words of the OIG, "Based on a statistical projection of sample results, we estimate that Indiana overpaid CMHC providers at least \$33,407,323

(\$21,298,841 Federal share) in reimbursement for services provided during fiscal year 2003. We found that 64 of 200 randomly selected MRO services provided by CMHCs included one or more payment errors. The payment errors occurred because the services did not meet the Federal and State reimbursement requirements for rehabilitation services. Indiana did not have adequate internal controls to monitor the providers to ensure that rehabilitation services were in compliance with the "State Medicaid Manual" and Federal regulations."

The OIG recommended that Indiana:

- Refund \$21,298,841 to the Federal Government and
- Strengthen internal controls over the monitoring of MRO services by furnishing written notification to CMHC providers reminding them to prepare and retain complete documentation to fully support Federal and State claiming provisions.

The Indiana audit was notable for documentation that was incomplete, missing, or did not support services appropriately. The auditors did not review the content of the services provided, the medical necessity of the services provided, or the clinical strategies that were being implemented. This is a good example of an "is it there" audit where the payer was looking for technical compliance with regulations and not reviewing the clinical compliance or the quality of care.

### **2001 – OIG Medicare Part B Audit of Mental Health Services**

The 2001 OIG audit's objective was to assess the appropriateness of Medicare Part B payments for mental health services provided to Medicare beneficiaries in the following outpatient settings: practitioners' offices, community mental health centers, beneficiaries' homes, and custodial care facilities.

In the words of the OIG, "For this inspection, we selected a stratified random sample of 1998 claims for outpatient mental health services. The sample included claims for individual psychotherapy, group psychotherapy, psychological testing, and pharmacologic management. We collected mental health records from Medicare providers in support of sampled services. An independent medical review contractor examined the records to make determinations about the medical necessity and appropriateness of mental health services."

Medicare allowed \$185 million in 1998 for inappropriate outpatient mental health services. One-third of outpatient mental health services provided to Medicare beneficiaries were medically unnecessary, billed incorrectly, rendered by unqualified providers, and undocumented or poorly documented. For 25 percent of all sample mental health services, independent medical reviewers determined that beneficiaries' medical records did not support claims reimbursed by Medicare. For another 6 percent of services, mental health service providers did not submit beneficiaries' medical records after three written OIG requests; and for another 3 percent of services, providers submitted a response that did not contain any medical documentation.



The OIG recommended that:

In order to address Medicare program vulnerabilities discussed in this report, we recommend that the Health Care Financing Administration:

- Target problematic mental health services for pre-payment edits or post-payment medical review.
- Promote provider awareness of documentation and medical necessity requirements for Part B mental health services. The HCFA and its carriers could enhance provider understanding of and compliance with Medicare requirements through seminars, education workshops, and newsletters.
- Work with both carriers and mental health professionals to develop a specific and comprehensive listing of psychological assessments that can be correctly billed under psychological testing code 96100. Our office made a similar recommendation in a recently issued report entitled “Medicare Payments for Psychiatric Services in Nursing Homes: A Follow-up,” which found similar problems with psychological testing instruments.
- Require Medicare carriers to initiate **recovery of payments** for the inappropriate outpatient mental health services identified in this report. Our office will provide a listing of these claims to HCFA.”

This was a very important audit for behavioral health providers in that both technical and content requirements were reviewed. As you can see many of the services were deemed non-medically necessary – a required component for payment of any healthcare service – and in a number of cases there were multiple problems including documentation and the credentials of those providing services. This was an important audit because it brought federal attention to the problems with payment for behavioral healthcare services and it initiated additional investigations into behavioral health Medicaid services as well.

## **2007 – OIG Medicare Part B Audit of Mental Health Services**

Medicare Part B Mental Health Services OEI-03-99-00130

The objective of this audit was to determine the extent to which Medicare Part B mental health services met Medicare’s coverage criteria and were coded correctly in 2003.

In the words of the OIG, “In 2005, we conducted a medical record review of a random sample of 452 Part B mental health services rendered by 422 billing practitioners in 2003, the most recent year for which we had Medicare claims data. Licensed psychiatrists reviewed the practitioners’ medical records we received to determine the medical necessity of the sampled services. Certified professional coders reviewed the medical records to determine proper coding. In addition, we interviewed 372 of the 422 billing practitioners for the sampled services. Forty-seven percent of the mental health services allowed by Medicare in 2003 did not meet program requirements, resulting in approximately \$718 million in improper payments. Medicare allowed approximately \$2.14 billion in 2003 for Part B mental health services; 47 percent of these services did not meet Medicare requirements. Miscoded and undocumented services accounted for 26

and 19 percent of all mental health services in 2003, respectively. Medically unnecessary services and services that violated the “incident to” rule each accounted for 4 percent of all mental health services in 2003. Some services had more than one error, resulting in overlapping errors in our error rate calculation.”

The recommendations from the OIG:

We recommend that CMS revise, expand, and reissue its 2003 Program Memorandum on Part B mental health services with an increased emphasis on proper documentation and coding. In addition, the memorandum should emphasize the requirements for mental health services billed “incident to.” In addition to this recommendation, we have forwarded information on the miscoded, undocumented, and medically unnecessary services identified in our sample to CMS for appropriate action.”

### **2006 - OIG Audit of Case Management Services in Massachusetts**

Review of Targeted Case Management\*Services Rendered by the Massachusetts Department of Social Services During Federal Fiscal Years 2002 and 2003 (A-0 1-04-00006). The objective of this audit was to determine whether the Massachusetts Office of Medicaid (the State agency) claimed allowable Medicaid targeted case management services rendered by Social Services during Federal fiscal years 2002 and 2003.

In the words of the OIG, “the State agency claimed unallowable Medicaid targeted case management services rendered by Social Services. Contrary to Federal requirements, the Social Services monthly rates for targeted case management charged to Medicaid included social workers’ salaries for providing direct social services, such as child protection and welfare services. Eliminating these unallowable costs from the calculation of the monthly rates, we determined that the State agency overstated its claims for targeted case management services by \$171,147,058 (\$86,645,347 Federal share). We attribute the overstatement to the State agency’s lack of procedures for ensuring compliance with Medicaid requirements.

We were unable to express an opinion on the remaining \$26,571,177 (\$13,460,989 Federal share) claimed by the State agency. Although this amount related to services that may appear to be allowable as targeted case management, we found a significant risk that these services may have already been reimbursed under other Federal programs.”

The recommendations from the OIG:

- Refund to the Federal Government \$86,645,347 in unallowable costs;
- Work with CMS to determine the allowability of the \$26,571,177 (\$13,460,989 Federal share) on which we were unable to express an opinion;
- Refund to the Federal Government any targeted case management costs that represent direct medical, educational, or social services claimed and reimbursed subsequent to our

- audit period; and
- Establish procedures to ensure that targeted case management rates used to claim Medicaid reimbursement do not include payment for direct medical, educational, or social services to which the Medicaid-eligible individual has been referred.”

The audit of Massachusetts case management services underscored the determination by the federal government to limit the scope of case management services to those interventions that are case assessment, care planning, referral related activities, and evaluation and monitoring of the care plan. These limits are also incorporated into the federal definition of case management in the Deficit Reduction Act of 2005. The federal government had become alarmed at the amount of Medicaid dollars being spent on case management and their concerns that the definition being used by providers and states was too broad and encompassed treatment and other direct services that were not case management. This and other case management audits contain some good examples of what are NOT case management services and are useful for training purposes.

### **2005 – OIG Audit of Adult Rehabilitation Services Program in Iowa**

The objective of this audit was to determine whether the State's claims for adult rehabilitation services met Federal and State Medicaid reimbursement requirements.

In the words of the OIG, “during our audit period, Federal fiscal year (FFY) 2002, the State claimed \$10,563,635 in Federal Medicaid matching funds for adult rehabilitation services. Of the 100 adult rehabilitation services claims in our statistically valid sample, 65 were unallowable under Federal and State requirements. Pursuant to Federal law, the Medicaid State plan, the State Medicaid Manual, or the Iowa Administrative Code:

- Documentation must support each patient encounter and each item of service reported on the Medicaid claim form.
- Services must be rehabilitative in nature and may not be primarily habilitative.
- A targeted case planner may not have a financial interest in any services rendered as specified in the comprehensive treatment plan.
- Medicaid services must involve direct patient care.

In the words of the OIG: “Of the 65 unallowable claims, 64 contained more than 1 error: Documentation was missing or inadequate for 65 claims. The services were non-rehabilitative for 53 claims. A conflict of interest (meaning that the provider may have had an inducement to say the client needed the services because that same clinician would be paid to provide the services) existed because the provider both authorized and rendered the services for 30 claims. No services were provided or the beneficiaries were not present for 11 claims. The errors occurred because the State lacked adequate internal controls over the adult rehabilitation services program to ensure that services claimed for Medicaid reimbursement met applicable requirements. We estimate that \$6,244,154 of the \$10,563,635 in Federal funds that the State claimed for FFY 2002 was unallowable.”

The OIG recommendations were that the State:

- Refund \$6,244,154 to the Federal Government and
- Strengthen policies and procedures to ensure that services claimed for Medicaid reimbursement are directed exclusively to the beneficiary's rehabilitative needs and meet other Federal and State requirements.”

There were 4 audits in this series of reviews of Iowa's rehabilitation services. All of them (3 children's audits and 1 adult audit) had very high error rates. These audits were notable for the disconnection between the federal and state auditors. Many of the providers claimed to have been audited and found in compliance by the state only to be told by the federal government that they did not agree. These audits all have good examples of services that did not meet federal requirements and many of the problem claims had more than one problem – not a covered service and also poorly documented for example.

They also brought attention to the fact that many providers and apparently states as well were confused about what actually constituted a rehabilitative service. In Iowa many adult rehab services were thought by the federal government to be habilitative – not re-habilitative. In other words they were services that were teaching hygiene and shopping (examples used in the audit) to people who had never gained these skills before and were learning them for the first time. In rehabilitative services, the OIG said, the skills being taught were those individuals had before they became mentally ill and then lost because of their mental illness. Rehabilitation services helped them re-gain these skills. For many providers this was new information. The government issued a draft rule to try to clarify but the rule was never enacted.

## Chapter 5: Documentation Rules

### Colorado Service Definitions

In 2009, Colorado prepared the Uniform Service Coding Standards Manual (Coding Manual) and updated this in 2011 to help guide Health Care Policy and Financing and providers to achieve uniform documenting and reporting of **covered** Colorado Medicaid State Plan and Waiver services. Standardizing the documentation and reporting of behavioral health encounters contributes to the accurate estimation of services costs, development of actuarially sound capitation rates, and compliance with federal regulations for managed care utilization oversight. The Coding Manual also provides guidance in documenting and reporting covered services in coding formats that are in compliance with the Health Insurance Portability and Accountability Act of 1996 so billing and sharing of service information can be done electronically. Most clinicians do not use the Coding Manual but use parts of it through a smaller coding manual for their center or team. Here is the link to the manual:

<http://www.colorado.gov/cs/Satellite?c=Page&childpagename=HCPF%2FHCPFLayout&cid=1251569171131&pagename=HCPFWrapper>

It is almost 300 pages long so view it electronically rather than printing. **This document was updated in 2011 and will continue to be reviewed and edited. As new versions of the manual are made available, provider organizations will be updated.**

*The ability to communicate medical necessity clearly and succinctly is critical for the provider.*

### Demonstrating Medical Necessity

As discussed in Chapter 1, medical necessity is a foundational concept that payers use to ensure the services offered to a client are needed to treat the conditions with which they are presenting so that payment can be rendered for those services. The challenge for the provider is to document such that the need for these services is clearly communicated to a payer or any auditor reviewing the documentation.

Although the structure of the assessment, treatment plan, or progress notes may vary between CMHCs, there are key components that should be included within the documentation to support the medical necessity of the services offered. References to these elements should be communicated to support why the client must receive the identified service in order to avoid a deterioration of their condition if they did not receive the services or if they received a less intensive service than is necessary for their condition. The ability to communicate this information clearly and succinctly is a critical skill for the provider. Great clinical care will be unknown unless there is great clinical documentation to communicate the care the client is receiving. Please refer to Chapter 2 for a review of the elements of medical necessity as defined by Medicaid, Division of Behavioral Health, and Medicare.

Again, treatment plan authorized services would ensure that what is being offered to the individual has been identified as the areas of growth necessary for that individual to be successful. Focusing on issues not identified as critical to treatment success may be detrimental to the success of that individual and would make the support of medical necessity difficult to justify. The problem lists for adults and children at the end of this chapter help define medical necessity.

## **Basic Medicaid Documentation Requirements**

Documentation of every service you provide and bill for is required by Medicaid. The documentation should be completed before the service is billed and should be located in an organized medical record where services are filed by date so they can be easily located. Documentation requirements can be found in this manual, the Colorado Coding Manual, in the DBH regulations and their Audit Tool located in the Appendix.

There are some very general rules about all documentation that should be followed:

- If you have a paper record.
  - Legibility: you must write clearly enough so that someone else can actually read what you have written. An outside auditor will not take the time to decipher your handwriting. They will simply deny payment for the service you have provided.
  - In paper records make sure all the original writing can be seen: don't "white out" cross out and write in the new information as you complete the documentation.
- All medical records:
  - If you find an error after the documentation has been completed and signed, then follow your agency's rules for correcting the information. In general, the new entry must be dated and signed and clearly marked as a "late entry or correction".
  - Make sure you are accurate to the best of your ability with everything you write in a medical record: be very careful about dates, the time it took to provide the service, the type of service you provided, etc.
  - Remember the medical record is the Individual's information, not yours: be careful about judging the Individual's actions, statements, and ways of dressing or behaving in your comments in their medical record.

There are four primary documents that make up the medical record – the assessment, the treatment plan, the treatment plan review, and progress notes/progress-to-date forms. Your agency may have additional documents that it wants you to complete.

**Assessments:** You may have multiple assessments for each Individual, especially in situations where they are receiving multi-disciplinary services. There is usually a bio-psychosocial assessment completed by a clinician who is trained to do some or all of this type of assessment. There may also be case management or functional assessments: these are not required but are used by many organizations to provide additional information about the individual, their current level of functioning, and their current service needs. You will need to consult with your

supervisor about whether or not you are expected to complete these assessments and how they must be used to plan treatment. And, for Individuals seeing the psychiatrist for medication management there is usually a psychiatric assessment completed as well.

**Treatment Plans:** The treatment plan is a dated document (there is both a beginning and an ending date for each plan), signed by individuals with the required professional credentials that authorized medically necessary services.

**If the treatment plan is out of date, consult the BHO in your region, Division of Behavioral Health, or Trailblazer (Medicare) to determine if services can be billed, even if they are medically necessary.**

**In Colorado you are required to attempt to get the Individual’s signature on the treatment plan. In the case of a younger child, the caretaker or guardian’s signature should be solicited. The signature is generally seen as evidence of the individual’s active participation in the development of their treatment plan. If the individual is unwilling or unable to sign then you should make a note of that in the medical record, i.e. complete a progress note that describes your meeting with the individual and the reason why they will not sign the plan. Even agencies with electronic medical records must often print a hard copy of the medical record to allow it to be signed. Under no circumstances ever have an individual sign a blank treatment plan form and then just fill it in at a later date. This is true even if you and the individual have discussed what will be included in the plan and even though their signature is not required by regulations. If you do not get the individual’s signature, you should discuss with your supervisor how to proceed with treatment planning and treatment.**

*Consult the BHO in your region  
before billing Medicaid  
encounters for an out-of-date  
treatment plan.*

**Each agency has its own policies on who must participate in completing the treatment plan and who is ultimately responsible for making sure it is kept current and is signed by the right people. Make sure you understand your responsibilities under your agency’s policies and procedures.**

**Treatment Plan Reviews/Updates:** Every 180 days in Colorado, there should be a review and/or update of the individual’s treatment plan. This review must be documented and placed into the medical record. The documentation of the treatment plan review can be in the form of a progress note, a special form that is completed specifically for this review, or notes made on the current treatment plan. However the review is documented, it should be signed by the “Practitioner of the Healing Arts” and the client (family member if appropriate) and then reviewed in another 180 days. Your agency will have its own requirements, be sure you understand them.

Whatever form the documentation takes, the review should record:

- The participants in the treatment plan review.

- The progress the Individual has either made or not made towards meeting their goals and objectives. This is best done by separately addressing each goal rather than a summary statement that is more of a general discussion of individual activities and progress towards goals.
- Any suggested and agreed upon modifications to the treatment plan as a result of the joint discussions of the Individual and the treatment team.
  - An auditor will expect that if the Individual has not progressed that there will be some discussion of why and that there will likely be changes to the plan to attempt to meet the Individual’s goals in another way.
  - An auditor will expect that if there has been progress that there will be some discussion of whether or not the treatment plan should change to reflect this progress, for example, should objectives change so that the individual is working on the next steps they need to take to meet their goals.

**Progress Notes/Progress-to-date Forms:** You are required to document each and every service you provide to the individual that is focused on one or more goals or objectives in their treatment plan and that you plan to bill to a third party. You do not need to record conversations that are general check-in conversations or do not have a specific treatment purpose. If you have a question as to whether or not to include a meeting or phone call with the Individual in their medical record, always ask your supervisor for guidance.

The purpose of the progress note is to:

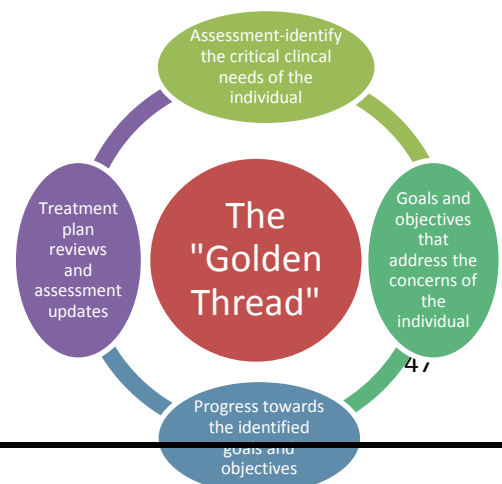
- Allow communication between members of the treatment team.
- Record for the Individual, the purpose and content of each interaction they have with their treatment team.
- Record for the payer each service they are being asked to pay for. It is this purpose that we are most concerned with in this training manual.

The payer, when auditing medical records, looks at the progress notes to determine whether or not:

- The service delivered is a covered service
- The service has been ordered by the appropriate professionals on a current treatment plan.
- The service was provided in the appropriate location, by the appropriately credentialed worker
- The bill for the service and the documentation of the service match each other as to date, time, and type of service provided.

## The Golden Thread

Payers will look for the “golden thread” in the documentation they review. As discussed in Chapter 1, this “thread” starts with the assessment, moves through the treatment plan, and





then, hopefully, can be found in and through each of the services that are billed on progress note/progress-to-date form.

**Assessment:** Let's take a look at each of the 4 primary elements in the assessment and their value to the Medicaid auditor:

**Part 1 – Presenting Problem:** The presenting problem tells the auditor why the Individual is coming for services now. What behaviors, symptoms, signs, trouble, problems, etc. have been noticed by the Individual, their family, other providers or referral sources that have resulted in the Individual seeking mental health services? This is an important statement and forms the basis for the determination of medical necessity. The presenting problem should be a situation, behavior, emotion, symptom, etc. that is having a significant impact on the Individual's life – either interrupting their ability to function, to continue in their usual life roles (whether adult or child), or to participate in their usual important family, work, and social relationships. This statement is often at least partly described by using the Individual's own words and therefore provides some very good information about how the Individual views his or her current problems. The more comprehensive this statement is, including information about how long, how symptoms have changed, what was tried already to relieve symptoms, etc. the easier it is for the auditor to determine if the admission and resulting episode of care is medically necessary.

**Part 2 - Data Gathering:** The assessment will usually have information on past family history, past social history of the Individual, past treatment history for both mental health and substance abuse problems, developmental history, sexual abuse, parenting and custody structures, work/educational history, military history, correctional or legal history, and more IF it is relevant to your decision making on diagnosis or treatment recommendations. The list of issues or domains that should be addressed and then documented, if relevant, is located under the assessment codes in the Coding Manual and in the DBH On-site Audit Tool. This part of the assessment also gathers data on the current signs and symptoms or problems in functioning the individual is experiencing and describes the evidence that those problems exist. This part also looks at the strengths and resources the individual brings with them and how those resources and strengths have helped in the past.

**Part 3 - Mental Status Exam or MSE:** Information on what is contained in a complete MSE is located in the Appendix of this manual. This is the exam portion of the assessment, similar to the physical exam given by medical doctors or nurse practitioners. In order to do an MSE, you must have this expertise within your scope of practice. The Coding Manual allows assessments to be partially completed without the MSE or a complete Diagnosis if the person completing the assessment is not credentialed to do so. In those cases, the Individual should be assessed by a licensed provider trained to do this and/or a prescriber in order to complete the MSE.

**Part 4– Analysis and Summary:** This is the analysis of the data that has been gathered to produce a diagnosis, the individual/family's commitment to treatment and their goals, a prioritized problem list, level of care recommendations, and a recommendation for the types and intensity of services. This analysis is generally found at the end of the assessment and is called by various names such as the clinical formulation. It is important that this be an analysis of the information

already gathered and not simply a summary of the information that has already been documented.

## **Following the Golden Thread in Treatment Plans and Treatment Plan Reviews:**

The treatment plan authorizes medically necessary treatment for the Individual. According to the Coding Manual, this document should include the following information on strengths and culture, goals, objectives, and discussion of service modalities to be used in treatment.

**Strengths and Culture:** Colorado wants the treatment plan to include the Individual's strengths and cultural attributes that will be used to achieve the goals and objectives. See Chapter 3 for a larger discussion on strengths. You should be aware of your agency's policies regarding strengths and how they are listed. In some cases you may simply list key strengths one time in the document. In other cases you may need to list specific strengths that will be used to reach a goal or an objective. The Coding Manual also requires that you consider the impact of the individual's culture on treatment and its design. See the Appendix for an example of a cultural assessment. Culture may impact the types of services an individual or family is willing to entertain, where they are willing to get services (e.g. will they allow you in their home), how other family members and which family members can be asked to provide some supports, and so forth. Clearly these cultural issues will have a significant impact on your planning with the Individual.

**Goals:** Life or recovery goals for the individual are directed as the "treatment of mental illness." In many organizations, the individual's own words for their goal are used in the treatment plan. This goal is sometimes called a recovery goal, life goal, rehabilitation goal, etc. This helps link in the Individual's mind the relevancy of the treatment and other services to an aspiration they have, something they want to achieve. In some cases you may need to translate the Individual's words into a "Treatment Goal: that more specifically addresses how mental health treatment will assist the individual in reaching their goal. The auditor must understand the relationship of the goal to the need for mental health services.

Treatment goals take the individual's goal and restate it so that it is clear what the mental health system's role is in helping the Individual reach their life/recovery goal. Goal statements generally follow a certain format and should describe:

- An endpoint of achievement. In order to recognize this, the goal should be tangible or able to be described, observed and/or measured. The goal describes what the Individual wants to be able to do – for example, where the Individual wants to be able to live, what level of independence they want to reach in different areas of their life, where and how they want to be able to contribute to their community, relationships they would like to build or rebuild, and so forth.
- Within what time frame or how often they will be able to do it within the time frame you have specified.

Examples of Life Goals and possible treatment goals:

Life: I want to move back in with my family.

Treatment Goal: Name will be able to learn and use key social skills that will allow him to develop and manage positive parental and sibling relationships so he can move home in 6 months to 1 year.

Life: I want to complete high school

Treatment Goal: Name will be able to manage symptoms of anxiety in order to control outbursts in school, avoid expulsion, and graduate from high school in 6 months.

Life: I want to be able to make and keep some good friends.

Treatment Goal: Name will be able to develop and use the social skills necessary for identifying, making and managing at least one friendship within one year.

Life: I want to live in my own apartment.

Treatment Goal: Name will be able to use necessary daily living and coping skills in order to move into an independent living situation in one year.

There is no right or wrong number of goals, but they should be prioritized and the more important ones dealt with first. As much as possible you should limit goals to 1 or maybe 2 so that the Individual and the treatment team are focused. The Individual must agree to the order in which the goals are addressed but as you develop the list with the Individual keep in mind which goals will most affect their ability to function and to move towards greater independence. You cannot demand that the Individual deal with these issues first, but you can point out to the Individual the potential consequences of not giving these issues a high priority.

**Objectives:** These must be listed for each of the goals that describe the smaller steps the Individual must take to reach their goal within the timeframe you and the Individual have agreed to. These should be able to be seen and measured so that both you and the Individual can see and celebrate progress. Because you are going to be measuring progress at least every 180 days in your Treatment Plan Reviews, it makes sense to look at steps or objectives that can be reached within that time period where possible. If objectives are reached prior to 180 days, the Treatment Plan may need to be changed to add additional objectives.

Treatment Goal: The Individual will locate and move into independent living within one year.

Objective 1: Individual will be apply for HUD housing within 3 months.

Objective 2: Individual will be able to travel on the bus from the group home to the mental health center by himself within two months.

Objective 3: Individual will be able to demonstrate his ability to cook three simple meals within 5 months.

These objectives can all be measured or observed. You can determine if the Individual has been able or not able to meet the objective by watching them or asking for self-report of cooking meals, or by meeting them at the doctor's office after they have traveled there on their own, or by confirming that the Individual is on the wait list for HUD housing.

Objectives should follow a specific format and include the following information:

- What the Individual will do (this is similar to the goal statements only with objectives you are looking for shorter term accomplishments, changes in behavior, increases in functioning, reduction in signs and symptoms or the ability to manage them better, etc.) Objectives should be outcome statements, not statements about process. For example, Individual will attend all psychiatric appointments, is not an objective –it describes the process. The objective should document what step towards their goals the Individual will be able to reach if they do make all their appointments. For example, Individual will be able to independently manage his psychiatry appointments within 6 months.
- Where and/or with whom the Individual will do it.
- How often – the percent of the time they will do it, or the numbers of times they will do it, in the time frame you both agree to – days, weeks, months and so forth.

The objectives should be negotiated with the Individual and you should both agree on the steps, the time frame and the Individual's willingness to work at the level of intensity required to meet the objectives.

There is no right or wrong number of objectives but consideration must be given to the level of intensity and complexity of treatment that the Individual can tolerate and benefit from. Also lots of objectives mean lots of tracking and difficulty focusing on a few achievements. Think in terms of 1- 3 objectives for each goal and then cross off the ones achieved and add new ones as the Individual progresses.

**Modalities:** These are the services that will be provided by you or you will link the Individual to (such as, case management) in order to assist them to reach their objectives. Modality statements in the treatment plan should be as specific as possible so that the treatment team members listed in the plan understand what is expected of them.

The modality statement should list:

- Type of service
- Content or focus of the service
- Length of time for each intervention, and
- Reason for the service being ordered(this last item is optional.)

Some examples of modality statements:

- Individual skill building sessions weekly for 1 hour to teach the Individual the basic steps for managing a checking account (optional: to increase financial independence)
- Face to face, individual, bi-weekly skill building sessions for ½ hour to develop with the Individual a reminder card for taking her medications
- Group sessions weekly for 2 hours to work with the Individual to successfully complete the Anger Management Curriculum
- Individual therapy sessions, bi-monthly for 1 hour assist the mom in developing calming strategies for Individual prior to visits with brother

- On a monthly basis in individual skill building sessions for ½ hour to evaluate the Individual’s ability to self-manage medications

The above statements are written out in longhand so that they are easier to understand for training purposes. You can use agency approved abbreviations and do not need to have complete sentences.

- Who will be responsible for the interventions - list the type of credentialed provider that will provide each service. In some cases your agency will require that you list the actual name of the case manager or others involved in the Individual’s treatment, make sure you understand your own policies.
- The anticipated length of time to meet the goals and objectives: In our examples, the time frame is actually listed in each of the goal and objectives statements and does not need to be separately listed again.

**The Treatment Plan is the Road Map:** The treatment plan should provide you with a road map for your interactions with the Individual. The more specific it is, the easier it will be for the treatment team and the Individual to follow. Treatment plans that are vague and that provide little detail can result in treatment interventions that are not effective and focused. The treatment plan provides you with your agenda for each and every meeting with the Individual.

The regulations do not require that you use a certain form for the treatment plan so each agency usually develops its own. It is important to remember that the form does not make the documentation right – it is what you put into the form – the content – that is important to the Medicaid auditors.

### Following the Golden Thread to the Progress Notes/Progress-to-date Forms:

A progress note should be done for each and every encounter you have with the Individual that will be billed to Medicaid. In some cases, summary notes can be used that describe multiple services provided in a day, but for all services billed there should be a back-up trail to show when and where an Individual received billable/encountered services.

Progress notes are very easy to write correctly if you use the Individual’s treatment plan as the basis for scheduling and providing services. Consult them frequently to make sure you are focusing your services on the Individual’s goals and objectives and that your services will be able to be billed. (If you take copies of your plans out into the community when you see Individuals for services, make sure you follow your own agency’s



requirements for how to protect this information, e.g. should you cross out the Individual's name and only list their initials, etc. )

The progress note should always follow a format so that the payers, your Individuals, you, and other treatment team members can find information quickly and easily. There are lots and lots of progress note formats and providers should consult their own policies and also the Coding Manual for specific instructions about content. In general there are two parts to the note. The part that requires certain documentation to meet the technical requirements of the payer and the part that describes the content of the service actually provided, the Individual's response, and your plan for next time.

**NOTE:** The following gives general guidance on the content of the note. Your agency may have additional requirements or a specific format they want you to follow.

**NOTE:** Always check with the Coding Manual for the specific content requirements for each service.

### **Progress Notes/Progress-to-date Forms – Technical Requirements:**

- The date of the service being provided. If, for a particular service you are required to do a daily note, you should not describe services that took place on more than one day.
- The time of the service being provided. At a minimum this should include the actual time the service began and the total time of the service. In some agencies you may be required to list both the start and stop time of the service. If you provide more than one service on the same day you can include them all on one progress note but you must be able to list individual times and describe the individual services so that they can be billed correctly. Medicaid wants to see every service it is expected to pay for listed and described separately.
- The name of the service that was provided. The title of each service must be listed separately above the description of the encounter. Medicaid needs to be able to easily determine if the service is a case management, medication management services, or skill building service. You must also list whether or not it was a group, individual, family, or collateral service (consulting with others who are not family but are involved in the Individual's care).
- The location of the service. Certain services are only allowed to be provided in clinic locations or in residential settings. Other services can be provided in all sorts of community locations. Consult the Coding Manual on allowed locations.
- Your signature and your credentials.
- The date of your signature. This may differ from the date of the service if you do not write your progress notes right away. Medicaid prefers that progress notes be written immediately but your agency may allow you some additional time to complete your documentation. Please make sure you understand your agency's rules.

### **Progress Notes – Content of the Service Provided:**

- **Linking to the treatment plan.** Each service must be authorized on the treatment plan and must focus on the issues listed on the plan. The best practice for this is to actually list the goal and/or objective right in the note. This makes it easy for the Individual, the treatment team, and any auditors to understand how the treatment plan and services are linked. It is easiest for the auditor if you list the objective rather than the goal because it is often more specific and it is easier to see the linkage.
- If you are focusing on more than one objective, you can list both or the one that is the primary focus of your visit.
- You do not need to write each objective out if you number the goals and objectives on your treatment plan. You can just list the numbers on the progress note so that the auditor can easily get from the treatment plan to your progress note. Many electronic medical records allow the provider to “pull” the relevant objectives over into the note.

**The presenting problem, chief complaint, or the reason for the visit:** In the assessment the Individual’s reason for asking for mental health or substance abuse services is listed in Part 1– the presenting problem. This tells the payer what the problems or issues are so that they can determine if the problems are mental health or substance abuse problems and if there is coverage for treatment of those problems. The payers are looking for something similar for each visit and on each progress note. The reason for visit statements can be very brief:

- Connecting name to community health center.
- Lesson 5 of anger management curriculum.
- Focus on controlling outbursts in school
- Teaching on filling med box
- Advocacy in meeting with Social Security.

In each case you are describing why you are meeting with the Individual and what the intended focus of the session will be.

Do not write the following in your Reason for Visit statements:

- The Individual’s diagnosis – a diagnosis is not a reason for you to meet with the Individual.
- “Individual is stable” or anything similar: First: the determination that the Individual is stable is a conclusion you make after meeting with the Individual not a reason for a visit. Second: if the Individual is stable, Medicaid wants to know why they still need mental health services.
- List the service: for example do not say “case management” or “skill building” -that is the service you are providing not the reason for the visit.

**List the Mental health interventions you provided:** after the reason for the visit, Medicaid wants to know what it was you did at the visit. Remember Medicaid is paying for mental health

services and wants to see that you provided skilled interventions that required specialized mental health knowledge and experience.

- Do not state that you observed or oversaw the Individual's activities –Medicaid does not pay for these because they are passive or custodial services not active interventions.
- Do not state that you accompanied the Individual on some activity. This is not an intervention either – why did you accompany the Individual? Why did they need you along?
- Do list the types of actions you took with the Individual: discussions, demonstrations, making lists, reviewing lists, teaching skills, showing, having the Individual show you, role playing, and other activities that describe what you and the Individual did together. See examples in the Grids for types of interventions.

**Describe the Individual's response to your interventions and progress:** Medicaid wants to understand how the Individual responded. Did the Individual participate and how do you know? For example:

- “Individual listened and was able to list three examples of when to use their anger management skills”
- “Individual stated she understood why it was important to complete the paperwork on time”
- “Role-played with Individual introducing herself to other members of the team”
- “Assisted Individual to develop the list of questions she had for her doctor's visit”

Did the Individual's participation indicate that they had benefited from your services? Ask them – what did they get out of the visit? How do they think it helped them? Write down what you were able to observe and check with the Individual to see if they agree. How does the Individual think they progressed with mastering a skill or with completing agreed upon tasks? How comfortable are they now with performing a skill or the steps they learned on their own? How has their understanding changed about how to best use a service or resource? Do they think your discussion about their current treatment needs was helpful? How?

- “Individual's states confidence increasing. Filled med box with only 5 prompts.”  
Progress towards objective.
- “Individual agrees that she can move forward with plans to move out of her mother's house.” Progress towards goal.
- “Individual states that she understands how to call and use help line at Social Security”  
Progress towards independence.

**Plans for next visit or visits** – this serves as a useful reminder to you and the Individual about what you will work on next time you see each other:

- “Will review treatment plan at next visit”
- “Will continue with role plays from Making Friends Curriculum”
- “Continue work on coping skills - focus on public locations”



Each progress note should end with a plan for next time, even if the next time you meet you will be discussing the Individual's ending his or her work with you and moving on to other activities. Planning for the next meeting requires that you and the Individual both reflect at each visit on how best to keep moving forward and what steps to take.

## **Signature Requirements for Authorizing/Recommending Treatment on Individual Treatment/Service Plans**

Most payers have specific requirements for who must sign the treatment plan. These signatures are required for different reasons. The person who wrote the treatment plan is required to sign. They are responsible for making sure the plan is individualized and for working with the Individual (hopefully through person-centered practices) so that the treatment plan is owned by the Individual as well as the treatment team.

Because the treatment plan represents the clinical strategy and the resources the provider intends to commit to achieve clinical outcomes, many payers now want the Individual's signature on the plan. This shows their agreement with the strategy and their commitment to using their own resources to further the treatment process.

In Colorado the Individual must be asked to sign the plan to show that they have participated in the development of the plan, that they agree with its contents, and that they have been given a copy. If they are unwilling to sign then (see above) a progress note should be written to describe their participation and reason(s) for not signing.

**There will be guidance coming about who needs to sign which treatment plans for a Medicaid client under the Medicaid Rehabilitation Option in the coming months. The final signature needed on a treatment plan is that of clinical professional. The BHOs recently requested official guidance from HCPF whether providers should use the Medicaid Rehabilitation Option Rules for determining who should sign the plan UNLESS the individual has Medicare or is dually eligible for both Medicare and Medicaid in which case a physician's signature is required.**

*All services must be authorized or recommended by the signature of a Licensed Practitioner of the Healing Arts acting within their scope of practice.*

The Rehabilitation Option states that services must be authorized or recommended by a Licensed Practitioner of the Healing Arts acting within the scope of their license under state law. This means that all treatment plans must be signed by someone licensed in Colorado. They would be called an LPHA. However, in addition to having a license, the LPHA can only recommend/authorize services that are within the scope of their own license under state law. This means, for example, that licensed social workers cannot order medication management services or nursing or other medical services. They cannot provide nor supervise these services under state licensing law.

The LPHA's signature on the treatment plan is intended to show their agreement that the services are medically necessary. What does this mean? It means that they agree that services as

authorized constitute generally accepted practice for treating the diagnosis listed, that they reflect in intensity and duration the current mental health status of the Individual, and that they are, in the opinion of the signatory, the most cost-effective, least intrusive and safest services for the Individual. It makes sense given the weight that payers give to the treatment plan in making payment decisions that they are concerned with just who has the credentials and experience to authorize or recommend a service plan.

Until further guidance is made available, the following options are recommended in #1 and #2 for Medicaid clients:

1. If an individual's services (MEDICAID only) include medication or nursing services there are 3 options:
  - a. Have the physician or NP sign to cover the med services
  - b. Don't include med services and have a separate med management plan signed by MD or NP
  - c. Include on the treatment plan a referral for medication evaluation and on-going treatment if necessary and then have the physician/nurse practitioner prescribe their own services and any other medical services directly on each progress note. By doing it this way, the physician does not have to sign the treatment plan.
2. If the individual's services (Medicaid only) do NOT include medication or nursing services, the Licensed Practitioner of the Healing Arts can sign the treatment plan as long as what is written into the plan is within their scope of practice.
3. With Medicare/Medicaid clients –a physician (not an NP must sign). Note: this is for clinic providers only. Private practitioners who bill Medicare under their own number can create a plan for the services they will provide with no additional signatures needed.
4. With Medicare only clients – a physician (not an NP must sign) Note: this is for clinic providers only. Private practitioners who bill Medicare under their own number can create a plan for the services they will provide with no additional signatures needed.

The differences between Medicaid and Medicare sometimes make it very difficult for providers to come up with a uniform policy and procedure that satisfies all payer requirements. This means that providers may need to develop payer-specific policies or use a universal conservative approach to treatment plan signatures.

All signatures must be dated. **THE TREATMENT PLAN IS NOT ACTIVE UNTIL THE LAST REQUIRED SIGNATURE IS IN PLACE ON THE PLAN.** Remember that a late or not properly signed plan will mean that services cannot be billed to Medicare or Medicaid without approval from the BHOs who will develop policy concerning this. For all other payers the provider agencies are responsible for determining payer requirements and for developing internal operational policy to meet those requirements. Check your agency policies for treatment planning and signatures for commercial insurances or other government health programs.

## Colorado Compliance Grid and Examples and Problem Lists for Assessment

The problem lists on the following pages provide examples to help define medical necessity for treatment. **Please keep in mind that problem lists are not required and only provide guidance.**

In the Appendix is a grid with in depth information about each required element on basic forms and provide best practice examples for documentation and assessment.

## **Symptom and Function Based Problem List for Adults**

### ADDICTIONS

#### Substance Use/Addiction

- Identify and describe current issues with drugs/alcohol.
- Examples: Client currently in recovery from cocaine addiction and enrolled in intensive outpatient program. Client suspended from work for drinking on the job. Reports no plan for assessment or treatment of possible addiction problem.

#### Other Addictive Behaviors

- Identify and describe the specific addictive behaviors.
- Examples: Client reports weekly gambling resulting in significant losses and eviction from apartment for not paying rent. Client reports daily use of internet pornography.

### ADJUSTMENT/ BEREAVEMENT

#### Bereavement Issues

- Identify any bereavement issues identified by client and the length of time since the cause(s) of the bereavement occurred.
- Examples: Client's biological mother died 6 months ago and client has been living with grandmother since the death. Grandmother reports significant problems with school since mother's death including fighting and unruliness frequent detention, and poor grades.

#### Adjustment issues

- Identify and list the key stressors.
- Examples: Client reports distress related to recent change of his residence. Client very anxious since mother's move to live with sister in western part of state. Client's childhood friend died unexpectedly from heart problems this past month. Client is being threatened by co-worker after he reported co-worker to boss.

### ANXIETY

#### Anxiety

- Identify and describe symptoms of anxiety.
- Examples: Client reports constant feelings of worry and uneasiness. Parent reports client is afraid of playing outdoors and will not go outside without parent. Client will not or cannot explain why there is change in behavior. Parents report client participates in obsessive rituals in morning resulting in client being frequently late for school.

### Traumatic Stress

- Identify if client is reporting stress related to current or past traumatic events. Summarize, where possible, the traumatic events that are the reported cause of the stress.
- Examples: Client has nightmares 4x per week since auto accident 3 months ago. Client startles and becomes physically aroused when uncle who sexually abused him is present. Client has flashbacks, at least weekly, about friend's death in house fire 2 years ago.

### ATTENTION

#### Inattention

- Identify and describe the specific signs of inattention.
- Examples: Client reports problems with concentration and attention resulting in great difficulty in finishing what he starts. Client becomes easily distracted resulting in two warnings at work. Supervisor complains that client is frequently off-task and constantly seems lost with regard to assignments.

### COMMUNITY RESOURCES

#### Access and Knowledge

- Identify and describe needs in the area of community services.
- Examples: Does client know about and how to access community services, self-help groups, food programs, and public transportation?

### DEMENTIA

#### Dementia

- Identify and describe memory loss or impaired cognitive function.
- Examples: Client reports problems with remembering to eat or take medications or pay bills. Client reports a significant decline from previous level of cognitive functioning. Gradual and continuing onset of cognitive decline.

### DISSOCIATIVE

#### Dissociative

- Identify and describe involuntary escape from reality through amnesia or alternate identities, usually a reaction to trauma.
- Examples: Client reports unexplained memory loss or chronic sense that their identity or the world around them is blurry or unreal. Client or others report a dramatic change in behavior when under stress.

## EATING

### Nutritional/Eating Pattern Changes/Disorders

- Identify any nutritional or eating disorders or problems.
- Examples: Client reports weekly bingeing and purging cycle. Client has had weight gain of 30 lb. past 2 months but states she is not pregnant. She has not been tested. Client noncompliant with prescribed diet for diabetes and gets into power struggles with parents about diet.

## EDUCATION

- Identify and describe educational needs.
- Examples: Is educational level sufficient? Are there areas where family education would assist family in providing better support for the client?

## HOUSING

### Stable and Sufficient

- Identify and describe housing needs.
- Example: Is the client at risk of losing housing? Are they able to maintain a clean environment, abide by rules and contribute to maintenance if living with others?

## HYGIENE/GROOMING

- Identify and describe care of personal hygiene
- Examples: Does the client care for personal cleanliness, hair, brushes teeth daily, dresses in clean clothes appropriate for the weather?

## IMPULSE CONTROL

### Anger/Aggression

- Identify and describe problems related to client's display of anger.
- Examples: Client reports angry mood almost all of the time. Client states she blows up easily when teased at work and her first response is to strike out. Client has been suspended from work for acting out behavior.

### Impulsivity

- Identify and describe the specific signs of impulsivity.
- Examples: Client engages in risk-taking behavior without considering consequences resulting in frequent warnings from local police. Client appears to act without thinking especially with regards to family members who they claim are afraid to be alone with him.

## Oppositional Behaviors

- Identify and describe the specific oppositional behaviors.
- Examples: Client refusing to participate in chores at residential facility. Client not attending morning groups as required by parole.

## LEGAL

- Identify and describe legal problems
- Examples: Client needs assistance and/or linkage to address legal issues

## MOOD

### Depressed Mood/Sad

- Identify and describe symptoms of depression.
- Examples: Client reports constant feelings of sadness and irritability. Parent reports client seems unhappy, “not himself” for past six months, but do not know if there was a precipitant.

### Mood Swings/Hyperactivity

- Identify and describe the specific signs/symptoms of mood swings/hyperactivity.
- Examples: Client reports sudden shift of mood from quiet and clam to agitated and hyperactive behavior with no apparent stressor or precipitating event. Client cannot sit still; always on the go; restless.

## PERSONALITY

### Personality

- Identify and describe an enduring pattern of inner experience and behavior in thinking, feelings, interpersonal functioning, or impulse control that markedly deviates from the person’s culture.
- Examples: Client reports significant distress or impairment in important areas of functioning. The pattern of behavior is stable and of long duration, tracing back to at least adolescence or early adulthood.

## PHYSICAL

### Pain Management

- Identify pain that interferes with activities, if present. Indicate the degree of interference and indicate the source of pain, if known. Note any current treatment including prescribed or OTC medications and prescriber, if applicable.

- Examples: Client reports severe headaches 3x per week that interfere with work. Client has pain daily since leg surgery, cries every evening, but is refusing pain medication which she believes gives her nightmares.

#### Sleep Problems

- Identify and describe the specific sleep problems.
- Examples: Client reports insomnia “most nights.” Client indicates it takes 2-3 hours to fall asleep most nights.

#### Health Issues/Medical History (Include any Allergies and Food/Drug Reactions)

- IDENTIFY CLEARLY ANY ALLERGIES AND DRUG/FOOD SENSITIVITIES TO MEDICATION OR OTHER SUBSTANCES. List the key health issues that are having a current impact on client. Include all current medical problems and include description of current level of acuity. If client is receiving treatment, list from whom and include other pertinent information. It may be important to explore recent or past medical issues that are no longer current as well.
- Examples: Client has multiple problems with pain in legs as a result of early physical abuse by step-father. Client on medication for seizure disorder for 10 years. Client was recently diagnosed with diabetes and is on oral medication and prescribed diet. Client has not received physical or dental exams for past 3 years.

#### PRODUCTIVITY

- Identify and describe functioning in primary role
- Examples: Discuss whether client is working in paid employment, has a volunteer position, is a home manager or other primary role. Do they have a sense of meaning in how they spend their time?

#### PSYCHOTIC

##### Disturbed Reality Contact

- Identify and describe the specific signs related to disturbed reality.
- Examples: Client reports auditory hallucinations. Client disoriented during interview; appeared to respond to internal stimuli; described visual hallucination. Residential staff reported client frequently expresses delusional beliefs.

#### SAFETY

- Identify and describe maintenance of personal safety
- Examples: Does the client move safely around the community? Do they make safe decisions? Is client safe in the kitchen using appliances and knives?

#### SEXUAL/ GENDER ISSUES

Sexual Dysfunctions (including sexual desire or arousal disorders)

Gender Identity Disorders



- Identify and describe any sexual difficulties that is causing marked distress or interpersonal problems
- Identify and describe a strong and persistent cross-gender identification and persistent discomfort with his/her sex

#### SOCIAL NETWORK

- Identify and describe quality of interactions with close social network
- Examples: Describe client's network of friends, neighbors, co-workers and peers. What is the quality of the relationships?

# Symptom and Function Based Problem List for Children and Adolescents

## ADDICTIONS

### Substance Use/Addiction

- Summarize information about current drug/alcohol abuse.
- Examples: Client currently in recovery from cannabis addiction and enrolled in intensive outpatient program. Client suspended from school for drinking on the grounds. He does not have a plan for assessment or treatment of possible addiction problem.

### Other Addictive Behaviors

- Identify and describe specific behaviors.
- Examples: Client reports weekly gambling that requires him to steal from family members. Client reports daily use of internet pornography.

## ADJUSTMENT/ BEREAVEMENT

### Bereavement Issues

- Identify any bereavement issues identified by client and the length of time since the cause(s) of the bereavement occurred.
- Examples: Client's biological mom died 6 months ago and client has been living with grandmother since the death. Grandmother reports significant problems with school since mom's death including fighting and unruliness, frequent detention, and poor grades.

### Adjustment Issues

- Identify and describe adjustment issues, the length of time, and identifiable stressor.
- Examples: Client and family moved to a new neighborhood and had to leave good friends behind. Parents are getting a divorce. Child is now acting up at school, not completing homework, cries a lot, and fears separation from mother.

## ANXIETY

### Anxiety

- Identify and describe symptoms of anxiety.
- Examples: Client reports constant feelings of worry and uneasiness. Parent reports client is afraid of playing outdoors and will not go outside without parent. Client will not or cannot explain why change in behavior. Parents report client participates in obsessive rituals in morning resulting in client being frequently late for school.

## Traumatic Stress

- Identify if client is reporting stress related to current or past traumatic events. Summarize, where possible, the traumatic events that are the reported cause of the stress.
- Examples: Client has nightmares 4x per week since auto accident 3 months ago. Client startles, becomes physically aroused when uncle who sexually abused him is present. Client has flashbacks, at least weekly, about friend's death in house fire 2 years ago.

## ATTENTION

### Inattention

- Identify and describe specific behaviors.
- Examples: Client reports problems with concentration and attention. Parent reports client never finishes what he starts and becomes easily distracted. Teacher indicates client is frequently off-task, constantly seems lost with regard to assignments, and frequently does not finish in time allotted for tests, quizzes, and in-school assignments.

## EATING

### Nutritional/Eating Pattern Changes/Disorders

- Identify any nutritional or eating disorders or problems.
- Examples: Client reports weekly bingeing and purging cycle. Client has had weight gain of 30 lb. past 2 months but states she is not pregnant. She has not been tested. Client noncompliant with prescribed diet for diabetes and gets into power struggles with parents about diet.

## ENVIRONMENTAL SUPPORTS/ SKILLS TRAINING

### Client's Family Needs Education to be Able to

- Identify areas where family education would assist them in providing better support for the client.

### Client Needs Other Environmental Supports

- Identify areas where environmental supports are needed to support the client in community living (i.e., housing, food, social supports, etc.) Identify also possible sources of that support.

### Other Problems or Skills Training Needs

- Identify any other problems or skills training needs identified by client and/or others involved in the assessment process.

### Skills Deficit/Skills Training/Community Support Needs

- Identify areas where community support services or linkages to appropriate services are needed. In the narrative section describe the specific skill deficits or areas where improvement/skills training are needed. These should be prioritized.

### GENDER IDENTITY

#### Gender Identity

- Identify and describe a strong and persistent cross-gender identification and persistent discomfort with his or her sex.
- Examples : Preference for cross dressing, cross sex roles in make believe play, intense desire to join in games or pastimes of other sex, insistence that he or she is the other sex, assertion that genitalia are disgusting and will disappear.

### IMPULSE CONTROL/ DISRUPTIVE BEHAVIOR

#### Anger/Aggression

- Identify and describe problems related to client's display of anger or anger management.
- Examples: Client reports angry mood almost all of the time. Client states she blows up easily when teased at school, and her first response is to strike out. Parents report client has physically attacked two children in past week, although none experienced significant injuries.

#### Oppositional Behaviors

- Identify and describe specific behaviors.
- Examples: Client describes negative and hostile view of teachers and parents. Client argues daily with parents about routine rules and expectations often refusing to complete chores, assist with care of siblings, and complete homework.

#### Impulsivity

- Identify and describe specific behaviors.
- Examples: Client engages in risk-taking behavior without considering consequences resulting in frequent warnings from local police. Parents complain that client appears to act without thinking especially with regards to interactions with siblings who they claim are afraid to be alone with him.

### MOOD

#### Depressed Mood/Sad

- Identify and describe symptoms of depression.
- Examples: Client reports constant feelings of sadness and irritability. Parent reports client seems unhappy, "not himself" for past 6 months but do not know if there was a precipitant. Client endorsed all depression items as "frequent" on depression scales.

### Mood Swings/Hyperactivity

- Identify and describe specific behaviors.
- Examples: Client reports sudden shifts of mood that he cannot control and that at times scare him. Parents report quick mood swings from quiet and calm to agitated and hyperactive, resulting in frequent scolding by teachers which embarrass and anger client. Client can't sit still, always on the go, restless resulting in poor school performance.

### PHYSICAL (PAIN, SLEEP, HEALTH)

#### Pain Management

- Identify pain that interferes with activities, if present. Indicate the degree of interference and indicate the source of pain, if known. Note any current treatment including prescribed or OTC medications and prescriber, if applicable.
- Examples: Client reports severe headaches 3x per week that interfere with schoolwork. Parent reports client has pain daily since leg surgery, cries every evening, but is refusing pain medication which she believes gives her nightmares.

#### Sleep Problems

- Identify and describe specific behaviors.
- Examples: Client reports having insomnia "most nights." Parents describe client as taking 2-3 hours to fall asleep most nights resulting in frequent complaints by teachers of client sleeping in class.

#### Enuresis/Encores

- Describe specific behaviors.
- Examples: Client reports nocturnal enuresis. Parents report that this continues to cause embarrassment and distress for client with siblings.

#### Health Issues/Medical History (include any allergies and food/drug reactions)

- IDENTIFY CLEARLY ANY ALLERGIES AND DRUG/FOOD SENSITIVITIES TO MEDICATION OR OTHER SUBSTANCES. List the key health issues that are having a current impact on client. Include all current medical problems. Include description of current level of acuity, if client is receiving treatment, from whom, and other pertinent information. It may be important to explore recent or past medical issues that are no longer current as well.
- Examples: Client had multiple spina bifida surgeries, related issues of pain management and prolonged school absences. Client dislikes medications for seizure disorder and is noncompliant with medication regime. Client has not received physical or dental exams for past 3 years.

### PSYCHOTIC

#### Disturbed Reality Contact

- Identify and describe specific behaviors.
- Examples: Client reports auditory hallucinations; client disoriented during interview, appeared to respond to internal stimuli; described visual hallucination. Parents reported client frequently expresses delusional beliefs.

## SOCIAL OR FAMILY CONCERNS

### Psychosocial Stressors

- List the key stressors as identified by client and/or family.
- Examples: Client reports distress related to recent change of his residence from foster care to residential program. Client very anxious since mom's move to live with her sister who he believes is a drug addict. Client's childhood friend died unexpectedly this past month from long standing medical problems. Client is being threatened by group at school after he reported them to school authorities.

# Appendix

## Training Suggestions

### Training Slides

### Full Page Golden Thread Diagram

### Grid of Compliance Elements and Examples Colorado Documentation

### Colorado Documentation Grid Description and Examples

### BHO Approved Audit Tool (Not available at this time)

### Division of Behavioral Health Audit Tool

### CMS Guide – Medicare Part B Psychiatric Services – Trailblazer

This can be found

at <http://www.trailblazerhealth.com/Publications/Training%20Manual/PsychiatricServices.pdf>

“Incident to” manual can be found

at [http://www.trailblazerhealth.com/Publications/Training%20Manual/incident\\_to.pdf](http://www.trailblazerhealth.com/Publications/Training%20Manual/incident_to.pdf)

## Other Resources

2 examples of Mini Mental Status Exams

Example questions for a cultural assessment

2 example assessments

CBHC website for CCQC information

## Colorado Uniform Services Coding Manual 2011 link and Covered Diagnosis List in Colorado for Medicaid

Covered diagnosis list can be found in the Colorado Uniform Service Coding Manual on page 16.

<http://www.colorado.gov/cs/Satellite?c=Page&childpagename=HCPF%2FHCPFLayout&cid=1251569171131&pagename=HCPFWrapper>