

## DEPARTMENT OF BEHAVIORAL HEALTH

### NOTICE OF FINAL RULEMAKING

The Director of the Department of Behavioral Health (Department), pursuant to the authority set forth in §§ 5113, 5115, 5117, and 5118 of the Department of Behavioral Health Establishment Act of 2013, effective December 24, 2013 (D.C. Law 20-61; D.C. Official Code §§ 7-1141.02, 7-1141.04, 7-1141.06 and 7-1141.07 (2018 Repl.)), hereby gives notice of the adoption of amendments to Chapter 37 (Mental Health Supported Employment Services and Provider Certification Standards) in Subtitle A (Mental Health) of Title 22 (Health) of the District of Columbia Municipal Regulations (DCMR). The Director also hereby gives notice of the repeal of Chapter 51 (Supported Employment Program – Reimbursement) of Title 22-A DCMR.

This final rulemaking implements requirements under the District’s Section 1115 Behavioral Health Transformation Demonstration Program (demonstration program) for Medicaid reimbursement of vocational Mental Health (MH) Supported Employment services that the District previously funded with local dollars and a new benefit for vocational and therapeutic Supported Employment services for individuals with Substance Use Disorder (SUD). To this end, this rulemaking establishes: (1) certification standards for MH Supported Employment providers who want to also deliver SUD Supported Employment services; (2) consumer/client eligibility criteria; (3) service authorization and referral requirements and processes, including requirements for outpatient Level OTP, 1, 2.1, and 2.5 SUD providers to submit certain information in specified timeframes and formats to the Department; and (4) reimbursement of Supported Employment services, replacing the provisions of Title 22-A DCMR Chapter 51 (Supported Employment Program – Reimbursement).

On February 7, 2020, a Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* at 67 DCR 001286. A Notice of Second Emergency and Proposed Rulemaking was published in the *D.C. Register* on June 5, 2020 at 67 DCR 006946. DBH did not receive any comments on either of the emergency and proposed rulemakings. The Department made technical changes in the following subsections to the terminology for the SUD Supported Employment clients’ Plans of Care to clarify that the related requirements apply to both individuals receiving Medicaid-funded SUD services and individuals receiving locally-funded SUD services: §§ 3704.1(a)(3)(B)(i), 3706.2(d), 3710.1(f), 3711.1(a), 3711.2(b), 3711.4, 3711.6(c), 3711.9, 3711.10, 3712, 3712.2, 3712.3, and 3799.1.

This rule was adopted as final on August 28, 2020 and will be effective on the publication of this notice in the *D.C. Register*.

**Chapter 51, SUPPORTED EMPLOYMENT PROGRAM—REIMBURSEMENT, of Title 22-A DCMR, MENTAL HEALTH, is repealed in its entirety.**

**Chapter 37, MENTAL HEALTH SUPPORTED EMPLOYMENT CERTIFICATION STANDARDS, of Title 22-A DCMR, MENTAL HEALTH, is repealed and replaced in its entirety with the following:**

**CHAPTER 37            MENTAL HEALTH AND SUBSTANCE USE DISORDER  
SUPPORTED EMPLOYMENT SERVICES AND PROVIDER  
CERTIFICATION STANDARDS**

**3700            MENTAL HEALTH AND SUBSTANCE USE DISORDER SUPPORTED  
EMPLOYMENT SERVICES AND PROVIDER CERTIFICATION  
STANDARDS**

3700.1            These rules establish the requirements and process for certifying a provider as a Mental Health Supported Employment provider or a Substance Use Disorder (SUD) Supported Employment provider in the District of Columbia, in order to provide services to consumers and clients eligible under this chapter.

3700.2            Supported Employment is an evidence-based practice adopted by the Department of Behavioral Health (Department) for mental health and adapted for SUD that:

- (a)            Provides ongoing work-based vocational assessment, job development, job coaching, treatment team coordination, and vocational and therapeutic follow-along supports;
- (b)            Involves community-based employment consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the consumer/client;
- (c)            Provides services at various work sites; and
- (d)            Provides part-time and full-time job options that are diverse, competitive, integrated with co-workers without disabilities; are based in business or employment settings that have permanent status rather than temporary or time-limited status; and that pay at least the minimum wage of the jurisdiction in which the job is located.

**3701            INITIAL CERTIFICATION REQUIREMENTS**

3701.1            No person or entity shall provide Mental Health or SUD Supported Employment services to consumers/clients eligible for services under this chapter unless certified in accordance with this chapter.

3701.2            No person or entity shall apply for certification from the Department as a Mental Health Supported Employment provider unless already certified as a Mental Health Rehabilitation Services (MHRS) provider in accordance with 22-A DCMR Chapter 34.

- 3701.3 A person or entity seeking certification as a Mental Health Supported Employment provider shall submit an application to the Department in the format established by the Department. The completed application shall include, at a minimum:
- (a) Proof of current certification as an MHRS provider;
  - (b) Proof of adequate staffing for the delivery of Mental Health Supported Employment services in accordance with § 3704 of this chapter;
  - (c) Proof of a Staff Selection Policy that complies with all applicable requirements of the Staff Selection Policy set forth in 22-A DCMR Chapter 34; and
  - (d) Proof of a Supported Employment Policy that states the policies and procedures related to the provider's set-up for delivering Mental Health Supported Employment services.
- 3701.4 No person or entity shall apply for certification from the Department as an SUD Supported Employment provider unless already certified as:
- (a) An MHRS provider in accordance with 22-A DCMR Chapter 34; and
  - (b) A Mental Health Supported Employment provider under this chapter.
- 3701.5 A person or entity seeking certification as an SUD Supported Employment provider shall submit an application to the Department in the format established by the Department. The completed application shall include, at a minimum:
- (a) Proof of current certification as:
    - (1) An MHRS provider; and
    - (2) A Mental Health Supported Employment provider.
  - (b) Proof of adequate staffing for the delivery of SUD Supported Employment services in accordance with § 3704 of this chapter;
  - (c) Proof of a Staff Selection Policy that complies with all applicable requirements of the Staff Selection Policy set forth in 22-A DCMR Chapter 34; and
  - (d) Proof of a Supported Employment Policy that states the policies and procedures related to the provider's set-up for delivering SUD Supported Employment services.

3701.6 The Department shall follow the applicable processes established for certification set forth in 22-A DCMR Chapter 34 to certify, deny certification, or decertify providers as Mental Health or SUD Supported Employment providers.

3701.7 Initial certification as a Mental Health or SUD Supported Employment provider shall be effective for a one (1)-year period. Certification shall remain in effect until it expires or is revoked, or the provider is recertified in accordance with § 3702 of this chapter.

3701.8 During the initial certification period, the Mental Health or SUD Supported Employment provider shall:

(a) Participate in a baseline program evaluation conducted by the Department within thirty (30) business days after the provider has begun delivering Mental Health or SUD Supported Employment services. The evaluation shall include a fidelity assessment using the Supported Employment Fidelity Scale established by Department policy;

(b) Enter into a contractual relationship with the Department on Disability Services' Rehabilitation Services Administration (RSA) within six (6) months of initial certification and maintain such contract for the remainder of the certification period; and

(c) Participate in a second program evaluation conducted by the Department six (6) months after the provider has begun delivering Mental Health or SUD Supported Employment services. The evaluation includes a fidelity assessment using the Supported Employment Fidelity Scale established by Department policy.

3701.9 A certified Mental Health or SUD Supported Employment provider receiving a fidelity score below an acceptable score as specified in Department policy during the fidelity assessments shall develop a corrective action plan to promptly address the deficiencies and shall receive technical assistance from the Department. If the Supported Employment provider's annual score does not improve to an acceptable score within six (6) months of the previous fidelity score, the provider shall not be eligible for recertification and may be subject to decertification.

3701.10 Certification is not transferable to any other organization.

## **3702 RECERTIFICATION REQUIREMENTS**

3702.1 The Department shall follow the applicable processes set forth in 22-A DCMR Chapter 34 to recertify, deny recertification, or decertify providers as Mental Health or SUD Supported Employment providers.

- 3702.2 A Mental Health or SUD Supported Employment provider seeking recertification from the Department shall submit an application to the Department in the format established by the Department and meet the requirements in § 3701.3 for Mental Health or § 3701.5 for SUD, respectively. The completed application shall also include proof of a current contract with the RSA.
- 3702.3 Recertification shall be effective for a two (2)-year period from the date of issuance of recertification by the Department, subject to the provider's continuous compliance with the certification standards.
- 3702.4 During any recertification period, the Mental Health or SUD Supported Employment Program shall:
- (a) Participate in an annual program evaluation conducted by the Department. The evaluation shall include a fidelity assessment using the Supported Employment Fidelity Scale established by Department policy; and
  - (b) Maintain a contractual relationship with RSA.
- 3702.5 A recertified Mental Health or SUD Supported Employment provider receiving a fidelity score below an acceptable score as specified in Department policy during the fidelity assessments shall develop a corrective action plan to correct the deficiencies and receive technical assistance from the Department. If the Supported Employment provider's score does not improve to an acceptable score within six (6) months of the previous fidelity score, the provider shall not be eligible for further recertification and may be subject to decertification.
- 3702.6 Recertification is not transferable to any other organization.

**3703 EXEMPTIONS FROM CERTIFICATION STANDARDS**

- 3703.1 Upon good cause shown, the Department may exempt an applicant or current Mental Health or SUD Supported Employment provider from a certification standard if the exemption does not jeopardize the health and safety of Supported Employment consumers/clients, violate Supported Employment consumers'/client's rights, or otherwise conflict with the purpose and intent of these rules.
- 3703.2 If the Department approves an exemption, such exemption shall end on the expiration date of the provider certification or on an earlier date if specified by the Department; unless the provider requests renewal of the exemption prior to expiration of its certification or the earlier date set by the Department.
- 3703.3 The Department may revoke an exemption that it determines is no longer appropriate.

3703.4 All requests for an exemption from certification standards shall be submitted in writing to the Department.

**3704 MENTAL HEALTH AND SUD SUPPORTED EMPLOYMENT SERVICES**

3704.1 Both Mental Health and SUD Supported Employment providers shall deliver the following services to Supported Employment consumers/clients:

- (a) Vocational Supported Employment services:
  - (1) Intake, which involves obtaining background, clinical, and employment information in order to enroll the consumer into Mental Health Supported Employment services or the client into SUD Supported Employment services and initiate a referral to RSA;
  - (2) Vocational Assessment, which consists of conducting vocational assessments and assessment of person-centered employment information, in order to identify the consumer's/client's employment interests, preferences, and abilities;
  - (3) Individualized Work Plan (IWP) Development, which includes the process of developing an IWP plan with the consumer/client, and which meets the following standards:
    - (A) The consumer's/client's preferences, not provider expectations or decisions, drive the consumer's/client's employment and career planning process;
    - (B) The IWP includes an employment goal and the support services required to reach the goal, such as:
      - (i) Integrating employment goals into the consumer's MHRS person-centered Plan of Care or client's SUD person-centered Plan of Care;
      - (ii) Strategies to address stressor situations;
      - (iii) Assistance with symptom self-monitoring and self-management; and
      - (iv) Assistance in increasing social support skills and networks that ameliorate life stresses resulting from the consumer's mental illness or client's SUD and which are necessary to enable and maintain the consumer's/client's independent living;

- (C) The IWP shall be updated annually or any time there is a significant change in the consumer's/client's condition or situation that affects progress toward the IWP's goals; and
  - (D) The IWP shall be completed and signed by the consumer/client within thirty (30) calendar days of the delivery of the first Supported Employment service.
- (4) Disclosure Counseling, which helps the consumer/client examine and understand the advantages and disadvantages of disclosing one's mental illness or SUD to their employer;
  - (5) Treatment Team Coordination, which involves coordination and contact with the treatment team members of the consumer's CSA or the client's outpatient Level Opioid Treatment Program (OTP), Level 1, Level 2.1, or Level 2.5 provider regarding the provision of Supported Employment services;
  - (6) Job Development, which involves contacting employers through various activities in order to obtain community-based employment for consumers/clients;
  - (7) Job Coaching, which helps consumers/clients learn job duties once employed through on-the-job training, effective use of community resources, and consultation with the worker's employer, co-workers, family, or supervisors as necessary; and
  - (8) Vocational Follow-Along Supports, which are provided to the consumer/client or employer to help the consumer/client maintain employment including through review of job performance and problem-solving; and
- (b) Therapeutic Supported Employment services:
- (1) Therapeutic Follow-Along Supports, which are interventions related to addressing behavioral health symptoms, and which include: crisis intervention, symptom management, behavior management, and coping skills needed to improve the consumer's/client's ability to maintain employment; and
  - (2) Benefits Counseling, which helps consumers/clients to examine and understand how employment may impact benefits such as Supplemental Security Income (SSI), Social Security Disability Insurance (SSDI), medical assistance, and other disability-related benefits, and which may also involve advocacy on behalf of the person to resolve issues.

**3705 MENTAL HEALTH AND SUBSTANCE USE DISORDER SUPPORTED EMPLOYMENT PROVIDER STAFFING REQUIREMENTS**

3705.1 A Mental Health or SUD Supported Employment provider shall have at a minimum:

- (a) One (1) Supported Employment Supervisor; and
- (b) One (1) Supported Employment Team comprised of:
  - (1) One (1) Supported Employment Manager; and
  - (2) Two (2) full-time Employment Specialists.

3705.2 In cases where a provider is certified as both a Mental Health Supported Employment provider and an SUD Supported Employment provider:

- (a) The Supervisor and Manager may be responsible for both Mental Health and SUD Supported Employment services, if appropriately trained in both mental health and SUD (*e.g.*, the Manager is permitted to supervise both SUD Employment Specialists and Mental Health Employment Specialists);
- (b) Each Employment Specialist shall only provide services to one population (*e.g.*, the Employment Specialist shall only provide Mental Health Supported Employment services, but not SUD Supported Employment Services); and
- (c) The provider shall maintain compliance with the staffing requirements and staffing ratios set forth in this subsection.

3705.3 Certified Mental Health and SUD Supported Employment providers must obtain Department approval to add Supported Employment Teams or Specialists supported through a Human Care Agreement.

3705.4 The Supported Employment Supervisor shall be responsible for overall monitoring of the Supported Employment program and provide clinical interventions and expertise in response to a Supported Employment consumer's/client's clinical and care coordination needs. The Supervisor shall be one of the following behavioral health clinicians appropriately licensed in the District or by the jurisdiction where services are delivered, who practices within the scope of their license:

- (a) Physician;
- (b) Psychologist;



- (c) Licensed independent clinical social worker (LICSW);
- (d) Licensed professional counselor (LPC);
- (e) Licensed marriage and family therapist (LMFT); or
- (f) Advanced practice registered nurse (APRN):
  - (1) With psychiatry as a specialty area of practice;
  - (2) Working in a collaborative protocol with a psychiatrist;
  - (3) Demonstrated proficiency in mental health by having at least five (5) years of experience in psychiatric care delivery;
  - (4) Demonstrated proficiency in SUD treatment, as evidenced by specialized training; or
  - (5) A minimum of five (5) years of experience in SUD care delivery.

3705.5 One (1) full-time equivalent Supported Employment Manager shall be responsible for no more than ten (10) Supported Employment Specialists, and shall not have other supervisory responsibilities. However, in cases where the Manager supervises fewer than ten (10) Supported Employment Specialists, the Manager may spend their time on other supervisory activities on a prorated basis.

3705.6 A Mental Health or SUD Supported Employment provider shall have one (1) full-time Supported Employment Specialist for every twenty (20) Supported Employment consumers/clients. Supported Employment Specialists shall satisfy all requirements for non-licensed credentialed staff pursuant to 22-A DCMR Chapter 34.

3705.7 A Mental Health or SUD Supported Employment provider shall comply with all applicable staff requirements set forth in 22-A DCMR Chapter 34.

3705.8 Supported Employment Specialists shall carry out all phases of Supported Employment services, including:

- (a) Intake;
- (b) Vocational Assessment;
- (c) IWP Development;
- (d) Benefits Counseling;

- (e) Disclosure Counseling;
- (f) Treatment Team Coordination;
- (g) Job Development;
- (h) Job Coaching;
- (i) Vocational Follow-Along Supports; and
- (j) Therapeutic Follow-along Supports.

3705.9 Supported Employment Supervisors, Managers, and Specialists shall be trained in evidence-based Supported Employment principles and practices. Supported Employment Managers and Specialists shall attend the Department’s Supported Employment provider meetings that are held periodically.

**3706 MENTAL HEALTH AND SUD SUPPORTED EMPLOYMENT RECORDS AND DOCUMENTATION REQUIREMENTS**

3706.1 Each Supported Employment provider shall establish and adhere to an Employment Record Policy for employment record documentation, security, and confidentiality of consumer/client information. The Employment Record Policy shall:

- (a) Require the Supported Employment provider to maintain all written employment records in a secured and locked storage area and any electronic records in compliance with all applicable Federal and District laws and regulations, and Department policies;
- (b) Require the Supported Employment provider to maintain secure, clear, organized, and comprehensive employment records for every consumer/client enrolled in the Supported Employment Program;
- (c) Set forth requirements for documentation maintained in the employment record;
- (d) For SUD Supported Employment providers require documentation in the Department-specified electronic health records system;
- (e) Require that the Supported Employment provider comply with a Documentation and Retention and Disaster Recovery Plan:
  - (1) For providers of Mental Health Supported Employment services the Plan shall comply with all applicable provisions of the Disaster Recovery Plan and document retention requirements set forth in 22-A DCMR Chapter 34; and

(2) For providers of SUD Supported Employment services, the Plan shall comply with all applicable provisions of the client records management and confidentiality requirements set forth in 22-A DCMR Chapter 63; and

(f) Keep Supported Employment documents for a minimum of ten (10) years.

3706.2 The following information shall be included in the Supported Employment consumer's/client's employment record:

- (a) Referral and intake information;
- (b) Identifying information about the consumer/client;
- (c) Appropriate release of information forms;
- (d) Current MHRS or SUD person-centered Plan of Care which includes the consumer's employment goals and objectives and identification of Supported Employment as a necessary service;
- (e) Individualized Work Plan (IWP);
- (f) Employment and employer contact information;
- (g) Benefits information such as receipt of Social Security and Temporary Assistance to Needy Families benefits;
- (h) Information about referrals to RSA; and
- (i) Encounter notes for each service.

3706.3 Employment Specialists shall document services on an encounter note, which shall include:

- (a) A description of the Supported Employment service(s) that is sufficient to document that the provision was in accordance with this chapter;
- (b) The time, date, and duration, including beginning and end time, of the provided services;
- (c) The name, title, and credentials of the person providing the services;
- (d) The setting in which the services were provided;

- (e) Confirmation that the provided services are in the consumer's/client's IWP;
- (f) A description of what supports were provided to enhance the consumer's/client's potential for securing employment;
- (g) Description of the consumer's/client's response to the Supported Employment services and supports, including the choices and perceptions of the consumer/client regarding the services provided;
- (h) Be dated and authenticated in written or electronic form by the person rendering the services; and
- (i) Include the appropriate billing codes for those particular services.

3706.4

A Mental Health or SUD Supported Employment provider shall collect and provide the following information and data to the Department monthly and upon request:

- (a) Number of consumers/clients referred to the Supported Employment provider and the source of the referral;
- (b) Number of consumers/clients enrolled in Supported Employment services;
- (c) Number of Supported Employment consumers/clients served;
- (d) Number of Supported Employment consumers/clients employed;
- (e) Number of inactive Supported Employment consumers/clients;
- (f) Number of consumers/clients on wait list;
- (g) Number of total full-time Employment Specialists;
- (h) Number of Supported Employment consumers/clients referred to RSA;
- (i) Number of Supported Employment consumers/clients participating in education programs;
- (j) Average number of hours that Supported Employment consumers/clients worked;
- (k) Average hourly wage paid to Supported Employment consumers/clients;
- (l) Number of Supported Employment consumers/clients receiving benefits (health, dental, or retirement) from employers;

- (m) Names and contact information (including locations) of employers who have hired Supported Employment consumers/clients;
- (n) Job titles and types of jobs for which Supported Employment consumers/clients have been hired; and
- (o) Any other information that the Department requires.

**3707 MENTAL HEALTH SUPPORTED EMPLOYMENT SERVICES ELIGIBILITY**

3707.1 To be eligible for Mental Health Supported Employment services, a consumer shall:

- (a) Be at least eighteen (18) years of age;
- (b) Indicate an interest in employment;
- (c) Have Mental Health Supported Employment identified as a needed service on a current, MHRS person-centered Plan of Care that has been reviewed by the Department;
- (d) Not be receiving MHRS Assertive Community Treatment (ACT) services; and
- (e) Be determined by the Department as meeting the following needs-based criteria:
  - (1) Be assessed to have mental health needs that require an improvement, stabilization, or prevention of deterioration in functioning (including ability to live independently without support), which result from the presence of a mental illness; and
  - (2) Have at least one (1) of the following risk factors:
    - (A) Be unable to sustain gainful employment for at least ninety (90) consecutive days as related to a history of mental illness;
    - (B) An inability to obtain or maintain employment resulting from age or disability (physical or behavioral);
    - (C) More than one instance of mental illness treatment in the past two (2) years; or

- (D) Be at risk for deterioration of mental illness as evidenced by one (1) or more of the following:
  - (i) Persistent or chronic risk factors such as social isolation due to a lack of family or social supports, poverty, criminal justice involvement, or homelessness;
  - (ii) Care for mental illness requiring multiple provider types, including behavioral health, primary care, and long-term services and supports; or
  - (iii) A past psychiatric history with no significant functional improvement that can't be maintained without treatment and supports.

**3708 AUTHORIZATION OF AND REFERRALS TO MENTAL HEALTH SUPPORTED EMPLOYMENT SERVICES**

3708.1 MHRS CSAs shall assess all consumers eighteen (18) years of age and older for interest in and potential eligibility for Mental Health Supported Employment services as a part of:

- (a) Developing or updating the consumer's MHRS person-centered Plan of Care; or
- (b) Upon request by family members, advocates, or other service providers.

3708.2 If a consumer is interested in Mental Health Supported Employment services, the CSA shall, in a manner specified by the Department, collect and submit the following information to the Department for its review and a service authorization determination:

- (a) Completed needs-based assessment that assesses for the criteria listed in § 3707.1(e);
- (b) MHRS person-centered Plan of Care; and
- (c) Documentation that the consumer made the choice about which certified Mental Health Supported Employment provider to receive services from, pending service authorization by the Department.

3708.3 The needs-based assessment must be completed face-to-face using the Department-specified needs-based assessment tool. It must be completed by one of the following:

- (a) Psychiatrist;
- (b) Psychologist;
- (c) LICSW;
- (d) LPC;
- (e) LMFT;
- (f) APRN:
  - (1) With psychiatry as a specialty area of practice;
  - (2) Working in a collaborative protocol with a psychiatrist; or
  - (3) Demonstrated proficiency in mental health by having at least five (5) years of experience in psychiatric care delivery;
- (g) Registered Nurse (RN);
- (h) Licensed Independent Social Worker (LISW);
- (i) Psychology Associate;
- (j) Licensed Graduate Professional Counselors (LGPC);
- (k) Licensed Graduate Social Worker (LGSW);
- (l) Physician Assistant; or
- (m) Credentialed staff, as described in 22-A DCMR Chapter 34, under the supervision of a behavioral health clinician permitted to diagnose mental illness.

3708.4 In order to prevent conflicts of interest, the Department shall make authorization determinations for the provision of Mental Health Supported Employment services. The determinations shall be based on review of the needs-based assessment and MHRS person-centered Plan of Care submitted by the CSA.

3708.5 The Department shall notify the CSA of the authorization decision, and the CSA shall communicate such determination to the consumer. Medicaid beneficiaries are entitled to Notice and Appeal rights pursuant to 29 DCMR § 9508 in cases of intended adverse action, such as an action to deny, discontinue, terminate, or change the manner or form of Medicaid-funded Supported Employment services. The Department shall provide local-only beneficiaries the same Notice and Appeal

rights as those provided to Medicaid beneficiaries in 29 DCMR § 9508.

3708.6 If the Department has authorized the provision of Mental Health Supported Employment services, the CSA shall within five (5) business days of receiving the determination make a referral to the Mental Health Supported Employment provider of the consumer's choosing. The referral shall be in writing in a format specified by the Department and include the following information:

- (a) CSA treatment team contact information;
- (b) Contact information for the consumer, including emergency contact information; and
- (c) Current MHRS person-centered Plan of Care.

3708.7 The Mental Health Supported Employment provider, upon receipt of a CSA referral, shall engage the consumer within three (3) business days.

3708.8 The provider must have a Wait List Policy to track and manage timely access to services. If the Mental Health Supported Employment provider is unable to accept new consumers, the provider shall notify the consumer, the referring CSA, and the Department.

3708.9 The Department authorization for provision of Mental Health Supported Employment services shall not exceed one-hundred and eighty (180) calendar days. To request continuation of Mental Health Supported Employment services, the Mental Health Supported Employment provider shall notify the consumer's CSA. The CSA shall reassess the consumer for the needs-based criteria and review the MHRS person-centered Plan of Care and update it as needed. Both the assessment and Plan of Care shall be submitted to the Department for review and a reauthorization determination.

3708.10 CSAs shall also reassess consumers receiving Supported Employment services and review, and update as needed, the MHRS person-centered Plans of Care any time there is a significant change in the consumer's condition or situation that affects progress toward the Supported Employment-related goals of the Plan of Care. The Department in those cases shall also review and make an authorization determination for Mental Health Supported Employment services.

### **3709 INTEGRATION WITH THE CSA TREATMENT TEAM**

3709.1 Mental Health Employment Specialists shall be integrated as part of the Supported Employment consumer's CSA treatment team. The Mental Health Employment Specialist shall attend regular treatment team meetings and maintain frequent contact with treatment team members.



3709.2 As a treatment team member, the Mental Health Employment Specialist may participate in updating the MHRS person-centered Plan of Care and is responsible for helping the consumer achieve the goals written in the Plan of Care with regard to employment.

3709.3 Services provided by the Mental Health Employment Specialist shall be consistent with the goals relating to employment included in the consumer's MHRS person-centered Plan of Care.

**3710 SUD SUPPORTED EMPLOYMENT SERVICES ELIGIBILITY**

3710.1 To be eligible for SUD Supported Employment services, a client shall:

- (a) Be at least eighteen (18) years of age;
- (b) Indicate an interest in employment;
- (c) Not be receiving MHRS ACT services;
- (d) Be receiving Medicaid-funded SUD services as described in 22-A DCMR § 6301.4 or locally-funded SUD services as described in 22-A DCMR § 6301.5 in one of the following Levels of Care:
  - (1) Level: OTP on an outpatient basis;
  - (2) Level 1: Outpatient;
  - (3) Level 2.1: Intensive Outpatient;
  - (4) Level 2.5: Day Treatment;
- (e) Be assessed as being able to benefit from and meaningfully engage in SUD Supported Employment services;
- (f) Have SUD Supported Employment identified as a needed service on a current, SUD person-centered Plan of Care that has been reviewed by the Department; and
- (g) Be determined by the Department to meet the following needs-based criteria:
  - (1) Be assessed to have substance use needs, where an assessment using the American Society of Addiction Medicine (ASAM) Criteria indicates that the client meets at least ASAM Level 1.0, indicating the need for outpatient SUD treatment; and

- (2) Have at least one (1) of the following risk factors:
  - (A) Unable to sustain gainful employment for at least ninety (90) consecutive days as related to a history of SUD;
  - (B) Unable to obtain or maintain employment resulting from age or disability (physical or behavioral); or
  - (C) More than one instance of SUD treatment in the past two (2) years;
  - (D) Be at risk for deterioration of SUD as evidenced by one (1) or more of the following:
    - (i) Persistent or chronic risk factors such as social isolation due to a lack of family or social supports, poverty, criminal justice involvement, or homelessness;
    - (ii) Care for SUD requiring multiple provider types, including behavioral health, primary care, and long-term services and supports; or
    - (iii) A past psychiatric history with no significant functional improvement that can't be maintained without treatment and supports.

**3711 AUTHORIZATION OF AND REFERRALS TO SUD SUPPORTED EMPLOYMENT SERVICES**

3711.1 Providers of outpatient Level OTP, Level 1, Level 2.1, and Level 2.5 shall assess all clients eighteen (18) years of age and older for interest in and potential eligibility for SUD Supported Employment services as a part of:

- (a) Developing or updating the client's SUD person-centered Plan of Care; or
- (b) Upon request by family members, advocates, or other service providers.

3711.2 If a client is interested in SUD Supported Employment services and assessed as being able to benefit from and meaningfully engage in SUD Supported Employment services, the provider shall, in a manner specified by the Department, collect and submit the following information to the Department for its review and a service authorization determination:

- (a) Completed needs-based assessment that assesses for the criteria listed in § 3710.1(g);
- (b) SUD person-centered Plan of Care; and
- (c) Documentation that the client made the choice about which certified SUD Supported Employment provider to receive services from, pending service authorization by the Department.

3711.3

The needs-based assessment must be completed face-to-face using the Department-specified needs-based assessment tool. It must be completed by one of the following behavioral health clinicians appropriately licensed (or certified, if applicable) in the District or by the jurisdiction where services are delivered, and who practices within the scope of their license (or registration, if applicable) and any applicable supervision requirements:

- (a) Physician;
- (b) Psychologist;
- (c) LICSW;
- (d) LPC;
- (e) LMFT; or
- (f) APRN who has:
  - (1) Demonstrated proficiency in SUD treatment, as evidenced by specialized training; or
  - (2) A minimum of five (5) years of experience in SUD care delivery;
- (g) LISW;
- (h) LGPC;
- (i) LGSW;
- (j) RN;
- (k) Physician Assistant; or
- (l) Certified Addiction Counselor I or II.

- 3711.4 In order to prevent conflicts of interest, the Department shall make authorization determinations for the provision of SUD Supported Employment services. The determinations are based on review of the needs-based assessment and SUD person-centered Plan of Care submitted by the client's outpatient Level OTP, Level 1, Level 2.1, or Level 2.5 provider.
- 3711.5 The Department shall notify the provider of the authorization decision, and the provider shall communicate such determination to the client. Medicaid beneficiaries are entitled to Notice and Appeal rights pursuant to 29 DCMR § 9508 in cases of intended adverse action, such as an action to deny, discontinue, terminate, or change the manner or form of Medicaid-funded Supported Employment services. The Department shall provide local-only beneficiaries the same Notice and Appeal rights as provided to Medicaid beneficiaries per 29 DCMR § 9508.
- 3711.6 If the Department has authorized the provision of SUD Supported Employment services, the provider shall within five (5) business days of receiving the determination make a referral to the SUD Supported Employment provider of the client's choosing. The referral shall be in writing in a format specified by the Department and include the following information:
- (a) Referring provider's treatment team contact information;
  - (b) Contact information for the client, including emergency contact information;
  - (c) Current SUD person-centered Plan of Care; and
  - (d) Advance directives or instructions, if available.
- 3711.7 The SUD Supported Employment provider, upon receipt of a referral from an outpatient Level OTP, Level 1, Level 2.1, or Level 2.5 provider, shall engage the client within three (3) business days.
- 3711.8 The provider must have a Wait List Policy to track and manage timely access to services. If the SUD Supported Employment provider is unable to accept new clients, the provider shall notify the client, the referring provider, and the Department.
- 3711.9 The Department authorization for provision of SUD Supported Employment services shall not exceed one-hundred and eighty (180) calendar days. To request continuation of SUD Supported Employment services, the SUD Supported Employment provider shall notify the client's referring outpatient Level OTP, Level 1, Level 2.1, or Level 2.5 provider. The referring provider shall reassess the client for the needs-based criteria and review the SUD person-centered Plan of Care

and update it as needed. Both the assessment and Plan of Care shall be submitted to the Department for review and a reauthorization determination.

- 3711.10 Outpatient Level OTP, Level 1, Level 2.1, and Level 2.5 providers shall also reassess clients receiving Supported Employment services and review, and update as needed, the SUD person-centered Plans of Care any time there is a significant change in the client's condition or situation that affects progress toward the SUD Supported Employment-related goals of the Plan of Care. The Department in those cases shall also review and make an authorization determination for SUD Supported Employment services.

### **3712 INTEGRATION WITH THE SUD TREATMENT TEAM**

- 3712.1 SUD Employment Specialists shall be integrated as part of the Supported Employment client's referring SUD provider's treatment team. The SUD Employment Specialist shall attend regular treatment team meetings and maintain frequent contact with treatment team members.

- 3712.2 As a treatment team member, the SUD Employment Specialist may participate in updating the SUD person-centered Plan of Care and is responsible for helping the client achieve the goals written in the Plan of Care with regard to employment.

- 3712.3 Services provided by the SUD Employment Specialist should be consistent with the goals relating to employment included in the client's SUD person-centered Plan of Care.

### **3713 REIMBURSEMENT**

- 3713.1 Mental Health and SUD Supported Employment providers, pursuant to their contract with RSA, shall seek reimbursement from RSA for the following services when provided to their Supported Employment consumers/clients while they are enrolled with RSA:

- (a) Job Development; and
- (b) Job Coaching.

- 3713.2 All Mental Health and SUD Supported Employment services not subject to reimbursement by RSA shall be billed by the Supported Employment provider in accordance with the remainder of this section. Reimbursement for Medicaid-funded and locally-funded Mental Health and SUD Supported Employment services described in §§ 3713.3 and 3713.4 shall be at the rate contained in the District of Columbia Medicaid fee schedule available online at [www.dc-medicaid.com](http://www.dc-medicaid.com). All future updates to the service codes and rates will be included in the District of Columbia Medicaid fee schedule pursuant to the procedures established in 29 DCMR § 988.

- 3713.3 The following services shall be billed as Vocational Supported Employment:
- (a) Intake;
  - (b) Vocational Assessment;
  - (c) IWP Development;
  - (d) Disclosure Counseling;
  - (e) Treatment Team Coordination;
  - (f) Job Development (if provided outside of time-period of RSA involvement);
  - (g) Job Coaching (if provided outside of time-period of RSA involvement); and
  - (h) Vocational Follow-Along Supports.
- 3713.4 The following services shall be billed as Therapeutic Supported Employment and shall be delivered by qualified practitioners or credentialed staff eligible to provide Community Support services as specified in 22-A DCMR Chapter 34:
- (a) Benefits Counseling; and
  - (b) Therapeutic Follow-Along Supports.
- 3713.5 Prior authorization by the Department shall be required for Vocational and Therapeutic Supported Employment services. Initial and any subsequent authorizations for Vocational Supported Employment services shall not exceed ninety-six (96) units per one hundred and eighty (180) calendar day time period. Authorizations for Therapeutic Supported Employment services shall not exceed one hundred and eighty (180) calendar days.
- 3713.6 Vocational and Therapeutic Supported Employment Services shall not be billed on the same day as Intensive Day Treatment services, as defined in 22-A DCMR Chapter 34.
- 3713.7 Billing units are fifteen (15) minutes.
- 3713.8 Mental Health and SUD Supported Employment services shall only be provided:
- (a) At the Supported Employment provider's service site; or
  - (b) In natural settings, including the consumer's/client's work site or other community setting.

3799

## DEFINITIONS

3799.1

When used in this chapter, the following words shall have the meanings ascribed:

**Client** – a person admitted to an SUD treatment or recovery program and is assessed to need SUD treatment services or recovery support services.

**Consumer** – a person who seeks or receives mental health services funded or regulated by the Department.

**Core Services Agency or CSA** – a Department-certified MHRS provider that has entered into a Human Care Agreement with the Department to provide specific MHRS in accordance with the requirements of 22-A DCMR Chapter 34.

**Department of Behavioral Health or the Department** – the District of Columbia agency that regulates the District’s behavioral health system for adults, children, and youth.

**Department on Disability Services’ Rehabilitation Services Administration or RSA** – the District of Columbia government entity that provides employment services to those individuals with developmental and other disabilities.

**Individualized Work Plan or IWP** – a plan developed by the Mental Health or SUD Supported Employment provider with the consumer that includes an employment goal and the support services required to reach the goal.

**Level 1 Provider** – a Department-certified SUD provider that has entered into a Human Care Agreement with the Department to provide Outpatient Services in accordance with the requirements of 22-A DCMR Chapter 63.

**Level 2.1 Provider** – a Department-certified SUD provider that has entered into a Human Care Agreement with the Department to provide Intensive Outpatient Services in accordance with the requirements of 22-A DCMR Chapter 63.

**Level 2.5 Provider** – a Department-certified SUD provider that has entered into a Human Care Agreement with the Department to provide Day Treatment Services in accordance with the requirements of 22-A DCMR Chapter 63.

**Mental Health Rehabilitation Services or MHRS** – mental health rehabilitative services provided by a Department-certified mental health provider.

**MHRS Person-Centered Plan of Care** – the MHRS person-centered Plan of Care developed by a Core Services Agency pursuant to the requirements set forth in 22-A DCMR Chapter 34.

**MHRS Provider** – providers certified by the Department as a Core Services Agency, sub-provider, or specialty provider to deliver MHRS.

**Needs-Based Assessment** – an assessment conducted by a consumer’s CSA or client’s outpatient Level OTP, Level 1, Level 2.1, or Level 2.5 provider, using the Department-specified needs-based assessment tool, to help determine if a consumer or client meets the needs-based criteria for receipt of Mental Health or SUD Supported Employment services.

**Outpatient Level Opioid Treatment Program or Outpatient Level OTP** – a Department-certified SUD provider that has entered into a Human Care Agreement with the Department to provide Opioid Treatment Program services on an outpatient basis in accordance with the requirements of 22-A DCMR Chapter 63.

**SUD Person-Centered Plan of Care** – the SUD person-centered Plan of Care developed for an individual meeting the eligibility requirements described in 22-A DCMR Chapter 63 §§ 6301.4 or 6301.5 by an outpatient Level OTP, Level 1, Level 2.1, or Level 2.5 provider, pursuant to the requirements set forth in 22-A DCMR Chapter 63.

**Supported Employment Fidelity Scale** – the Supported Employment provider evaluation tool developed in accordance with the evidence-based practice adopted by the Department and as stated in Department policy.