

Addictions & Mental Health Division

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Treatment Courts and Medicaid Services

As treatment courts become more prevalent in Oregon, questions about Medicaid payment for diagnostic assessment and treatment have been directed to the Addictions and Mental Health Division (AMH). AMH is in the process of providing technical assistance to our partners to clarify the manner in which Medicaid funding may be used by participants who are eligible for these specific health care services.

Over the last ten years there has been a trend to develop treatment courts as an adjunct to probation and incarceration for non-violent offenders. Treatment courts provide a unique balance of judicial supervision and medically appropriate treatment for their participants.

According to the Office of National Drug Control Policy there are now 1557 active treatment courts in the United States and 394 in the planning stages. In addition to all 50 states the courts are operating or being planned in the District of Columbia, Northern Mariana Islands, Puerto Rico, Guam, two Federal Districts and 136 tribal programs.¹ Oregon has 28 drug treatment courts in 36 counties.² Some counties in Oregon have integrated their mental health and drug treatment courts into a single treatment court.

Treatment Courts in Oregon are funded with federal/state funds and grants. Some participants in treatment court may be eligible for Medicaid health

¹ <http://www.whitehousedrugpolicy.gov/enforce/drugcourt.html>

² Bureau of Justice Assistance, Drug Court Clearinghouse Project of American University: Summary of Drug Court Activity by State and County 9/21/06.

care services and this coverage may offset diagnostic and treatment costs to the courts or the individuals.

Treatment for Medicaid eligible drug court participants

In keeping Medicaid rules and the OAR regarding medical necessity/appropriateness court ordered treatment in and of itself is not a covered benefit. Federal rule 42 C.F.R. § 440.230(d) indicates appropriate limits may be placed on a service based on several criteria including medical necessity. However, medical necessity is not defined by the Medicaid Act. Oregon Administrative Rule 410-120-00 (98) (a), (b), (c), (d), defines medical appropriateness as an accepted standard of good health practice, within the parameters of state law (see footnote).³

It is important to understand the participant must voluntarily consent to treatment services and they must be medically appropriate. Involvement with DHS and their partners during the development of treatment courts and their procedures may help to alleviate issues as they pertain to payment of health care services.

A Medicaid eligible client will be responsible for treatment requested by the court if after a diagnostic assessment it is determined by the provider treatment is not medically necessary. However, the diagnostic assessment may and should be billed to Medicaid subject to the provisions of the OHP prioritized list and the client's managed care provider.

If the primary reason for treatment is a condition above the funded line within the prioritized list, services may and should be billed to Medicaid. If the client is enrolled with a managed care plan the treatment court coordinator or designee should contact the plan for coverage information and reimbursement procedures.

³ OAR 410-120-0000(98) Medically Appropriate -- Services and medical supplies that are required for prevention, diagnosis or treatment of a health condition which encompasses physical or mental conditions, or injuries, and which are: (a) Consistent with the symptoms of a health condition or treatment of a health condition; (b) Appropriate with regard to standards of good health practice and generally recognized by the relevant scientific community and professional standards of care as effective; (c) Not solely for the convenience of an OHP Client or a Provider of the service or medical supplies; and (d) The most Cost Effective of the alternative levels of Medical Services or medical supplies which can be safely provided to an OMAP Client or Primary Care Manager (PCM) Member in the PHP's or PCM's judgment.

Finally, federal regulations require state Medicaid agencies take all reasonable measures to ensure Medicaid will be the payor of last resort for medically appropriate services covered by the Medicaid state plan.

Our office supports a variety of treatment court models. It is our intent to work with treatment courts in the state maximizing the most effective use of resources.

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