



March 2, 2018

DAL 18-05 - Time Limited Waiver to Provide Detoxification Services in Excess of Bed/Patient Days Thresholds

Dear Chief Executive Officer:

As you know, New York State is in the midst of an opioid epidemic and is evaluating all avenues available to increase access to all levels of treatment for those suffering from addiction. Expanded hospital-based detoxification services, in conjunction with use of certified peers and referral to an appropriate OASAS-certified treatment provider for comprehensive addiction treatment, is a model that can meet this objective and positively impact the opioid epidemic.

When an individual presents at a hospital Emergency Department (ED) having had an overdose reversed with Narcan, or seeking detoxification services, hospitals have been reluctant to admit such an individual for detoxification services to a general medical/surgical bed because they do not hold a separate certification issued by OASAS. This is a missed opportunity that could potentially have fatal consequences. This communication seeks to clarify existing certification requirements and to provide additional regulatory flexibility available to increase access to addiction treatment.

New York State Mental Hygiene Law § 32.05 specifically requires OASAS certification for the operation of a discrete residential or non-residential chemical dependence services unit in a hospital. A discrete unit is defined within OASAS regulations as the provision of chemical dependence withdrawal and stabilization services in excess of 5 beds, or greater than 10% of overall patient days of an Article 28 licensed hospital for purposes of providing inpatient or non-inpatient chemical dependence services (See 14 NYCRR 816.4(b)).

Recognizing the public health crisis, and the valuable role hospitals can play in its abatement, **OASAS will exercise its power to provide Article 28 hospitals with a time limited waiver to provide detoxification services above the threshold of 5 beds or greater than 10% of overall patient days, upon notification to OASAS and the Department of Health (DOH) of their intent to provide such services. This waiver will be valid until December 31, 2018, at which point OASAS and DOH will re-evaluate the need for continued waiver.** This waiver will permit the admission and treatment of appropriate patients above the regulatory limits for detoxification without the need for an OASAS operating certificate.

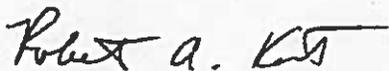
Please note, where a patient is admitted to a hospital for detox in a medical/surgical bed, and the hospital does not have a discrete unit for substance use disorder treatment, there is a payment mechanism for the hospital to receive reimbursement for these services. Hospitals are reimbursed using an acute payment methodology, APR-DRG. The Hospital should use rate code 2946 for acute services and they will receive a per discharge reimbursement for detoxification services under the APR-DRGs 770 through 776.

It should be noted that this does not apply when the hospital is a Critical Access Hospital (CAH), as that hospital does not utilize the APR-DRG methodology. Because of the unique considerations for a CAH, any CAH seeking to provide detox services above the OASAS certification threshold should consult with DOH and OASAS on how to provide detox services without jeopardizing their status as a CAH. Initial inquiries can be directed to ORH@health.ny.gov.

Hospitals interested in utilizing the waiver should send notice of their intent to exceed the threshold to OASAS at Legal@oasas.ny.gov. These requests will be acknowledged within five business days of receipt.

In addition to the regulatory waiver relief, hospitals are reminded that emergency room physicians may also take advantage of federal flexibility to treat addiction using medication-assisted treatment. Federal law and rules allow a physician to administer methadone or buprenorphine, once a day, for up to a 72-hour period, in the case of an emergency, while a connection to addiction treatment is made. Further, individual physicians who have obtained authorization from the federal government to administer buprenorphine to patients with an opioid use disorder may do so without obtaining an OASAS operating certificate.

Sincerely,



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