

TITLE 7 HEALTH
CHAPTER 21 BEHAVIORAL HEALTH
PART 1 GENERAL PROVISIONS

7.21.1.1 ISSUING AGENCY: Human Services Department
[7.21.1.1 NMAC - N, 9-1-11]

7.21.1.2 SCOPE: This rule applies to the general public.
[7.21.1.2 NMAC - N, 9-1-11]

7.21.1.3 STATUTORY AUTHORITY: Subsection F of Section 9-7-6.4 NMSA 1978 requires the interagency behavioral health purchasing collaborative (the collaborative) to adopt rules through the human services department. The collaborative is created by statute and comprised of the secretaries of aging and long-term services; Indian affairs; human services; health; corrections; children, youth and families; finance and administration; workforce solutions; public education; and transportation; the directors of the administrative office of the courts; the New Mexico mortgage finance authority; the governor's commission on disability; the developmental disabilities planning council; the vocational rehabilitation division of the public education department; the New Mexico health policy commission; and the governor's health policy coordinator, or their designees.
[7.21.1.3 NMAC - N, 9-1-11]

7.21.1.4 DURATION: Permanent
[7.21.1.4 NMAC - N, 9-1-11]

7.21.1.5 EFFECTIVE DATE: September 1, 2011, unless a later date is cited at the end of a section.
[7.21.1.5 NMAC - N, 9-1-11]

7.21.1.6 OBJECTIVE: The objective of this rule is to provide policies for the standard of delivery for behavioral health services through contracted behavioral health entities and for approval of contracts by the collaborative.
[7.21.1.6 NMAC - N, 9-1-11]

7.21.1.7 DEFINITIONS: This section contains the glossary for the New Mexico behavioral health system. The following definitions apply to terms used in this chapter and shall guide any rules promulgated by collaborative members regarding behavioral health.

A. Definitions beginning with letter "A":

(1) **Abuse, individual:** Any intentional, knowing or reckless act or failure to act that produces or is likely to produce physical or great mental or emotional harm, unreasonable confinement, sexual abuse or sexual assault consistent with 30- 47-1 NMSA 1978.

(2) **Abuse, provider:** Provider practices that are inconsistent with sound fiscal, business, medical or service related practices and result in an unnecessary cost to the program, or in reimbursement for services that are not medically, clinically, or psychosocially necessary or in services that fail to meet professionally recognized standards for behavioral health care.

(3) **Adult behavioral health procedures manual:** The procedures manual that includes the psychiatric rehabilitation program requirements and comprehensive community support services requirements.

(4) **Advance directive:** Written instructions such as a mental healthcare advance directive, psychiatric advance directive, living will, durable health care power of attorney, durable mental health care power of attorney, or advance health directive, relating to the provision of health care when an adult is incapacitated. (See generally, 27-7A-1 - 27-7A-18 NMSA, 1978, and 24-7B-1 – 24-7B-16 NMSA 1978.)

(5) **Adverse determination:** A determination by the BHE that the behavioral health services furnished, or proposed to be furnished to a consumer, are not medically, clinically or psychosocially necessary or not appropriate.

(6) **American society of addiction medicine (ASAM):** An organization of professionals in addiction services that developed, in the early 1990s a set of criteria and tools to identify the level of care best suited to an individual in need of addiction services.

B. Definitions beginning with letter "B":

(1) **Behavioral health (BH):** The umbrella term for mental health and substance abuse. It includes

both mental health (MH) , including psychiatric illnesses and emotional disorders, and substance abuse (SA), including addictive and chemical dependency disorders, and includes co-occurring MH and SA disorders and the prevention of those disorders.

(2) **Behavioral health entity (BHE):** One or more managed care organizations selected by HSD and the collaborative to provide all defined behavioral health service responsibilities, including medicaid behavioral health.

(3) **Behavioral health planning council (BHPC):** The body created to meet federal and state advisory council requirements and to provide consistent, coordinated input to the behavioral health service delivery system in New Mexico, and with which the BHE will be expected to interact with as an advisory council. (See 24-1-28 NMSA, 1978)

C. Definitions beginning with letter “C”:

(1) **Chair or co-chairs:** The secretary of human services shall serve as the chair of the collaborative. The secretary of health and the secretary of children youth and families shall alternate each state fiscal year as the co-chair of the collaborative.

(2) **Clinical necessity:** The determination made by a behavioral health professional exercising prudent clinical judgment as to whether a behavioral health service would promote growth and development, prevent, diagnose, detect, treat, ameliorate, or palliate the effects of a behavioral health condition, injury, or disability for the consumer.

(3) **Collaborative:** The interagency behavioral health purchasing collaborative, responsible for planning, designing and directing a statewide behavioral health system. The collaborative, established under Section 9-7-6.4 NMSA 1978, by its statutory member agencies collectively, operates under by-laws adopted by the collaborative.

(4) **Collaborative members or member agencies:** The statutory and *ex officio* agency representatives who sit on the collaborative or their agency designees.

(5) **Comprehensive community support services (CCSS):** CCSS is a recovery and resiliency oriented service which is provided in the community, primarily face-to-face, using natural supports to the maximum extent possible to build on client and family strengths. These services are goal-directed mental health rehabilitation services and supports for children, adolescents, and adults necessary to assist individuals in achieving recovery and resiliency goals. These services assist in the development and coordination of a consumer or member’s service plan and include therapeutic interventions which address barriers that impede the development of skills necessary for independent functioning in the community. (See, 8.315.6 NMAC, 8.305.1 NMAC and collaborative adult behavioral health procedural manual.)

(6) **Consumer:** For purposes of these rules, a person with a mental health or substance use disorder receiving or eligible to receive behavioral health services through collaborative or collaborative member contracts, or a past recipient of such services.

(7) **Consumer empowerment:** Activities that address the following areas:

- (a) consumer choice
- (b) consumer voice
- (c) self-management
- (d) community integration

(8) **Continuous quality improvement (CQI):** CQI is a process for improving quality that assumes opportunities for improvement are unlimited; is customer-oriented, data driven, and results in implementation of improvements; and requires continual measurement of implemented improvements and modification of improvements, as indicated.

(9) **Core service agencies (CSAs):** Multi-service agencies that help to bridge treatment gaps in the child and adult treatment systems, promote the appropriate level of service intensity for consumers with complex behavioral health service needs, ensure that community support services are integrated into treatment, and develop the capacity for consumers to have a single point of accountability for identifying and coordinating their behavioral health, health and other social services.

(10) **Credentialing:** A systematic process whereby the BHE or provider verifies and warrants that an employed, contracted or affiliated behavioral health professional or agency meets specified practice standards including education, experience, licensure and certification.

(11) **Cultural competence:** A set of congruent behaviors, attitudes, and policies that come together in a system, agency, or among professionals that enables them to work effectively in cross-cultural situations, including situations of diverse culture, race, ethnicity, national origin or disability. Cultural competency involves the integration and transformation of knowledge, information and data about individuals and groups of people into

specific clinical standards, service approaches, techniques and marketing programs that match an individual's culture to increase the quality and appropriateness of behavioral health care and outcomes. *See*, 8.305.1.7 NMAC.

D. Definitions beginning with letter "D":

(1) **Delegation:** A formal process by which a BHE gives another entity the authority to perform certain functions on its behalf but for which the BHE retains full accountability for the delegated functions.

(2) **Designated representative:** A person designated under a valid mental health care treatment advance directive as an individual's authorized agent according to the provisions of the Mental Health Care Treatment Decisions Act (Section 24-7B NMSA 1978) and who has personal knowledge of the respondent and the facts as required in Subsection B of the act.

E. Definitions beginning with letter "E":

(1) **EPSDT:** Early and periodic screening, diagnostic and treatment.

(2) **Ex-officio members:** Non-voting members of the collaborative, who otherwise serve as full members (e.g. the secretary of higher education department, secretary of veteran's services department, New Mexico public defender, and the children's cabinet coordinator).

(3) **Executive committee:** A committee of the collaborative comprised of the secretaries of human services, health, and children youth and families. The executive committee is authorized to negotiate, approve and execute contracts and amendments on behalf of the collaborative.

F. Definitions beginning with letter "F":

(1) **Family-centered care:** When a child is the consumer, the system of care reflects the importance of the family or legal guardian in the way services are planned and delivered. Family-centered care facilitates collaboration between family members and behavioral health professionals, builds on individual and family strengths and respects diversity of families.

(2) **Family specialist:** An approved provider who is certified as a family specialist through an approved state certification program. (See Subsection U of 7.20.11.7 NMAC)

G. Definitions beginning with letter "G":

(1) **Grievance (consumer):** Oral or written statement by a member expressing dissatisfaction with any aspect of the BHE or its operations that is not a BHE action.

(2) **Grievance (provider):** Oral or written statement by a provider to the BHE expressing dissatisfaction with any aspect of the BHE or its operations that is not a BHE action.

H. Definitions beginning with letter "H": **HIPAA:** Health Insurance Portability and Accountability Act of 1996.

I. Definitions beginning with letter "I": **Indicated prevention:** Interventions that identify individuals who are experiencing early signs of substance abuse, mental illness and other related problem behavior and target them with special programs.

J - K [RESERVED]

L. Definitions beginning with letter "L":

(1) **Letter of direction (LD):** Written instructions, detailed action steps, and guidelines to clarify the implementation of programs funded by new funding sources or changes to programs funded by funding sources identified in the BHE contract.

(2) **Local collaborative (LC):** An advisory body, delineated by either judicial district or tribal grouping and recognized by the collaborative, that provides input on local and regional behavioral health issues to the collaborative, the BHPC and the BHE.

(3) **Logic model, prevention services:** A logical conceptual framework used to connect the prevention effort with its intended results and the goal of reducing substance abuse. The framework is based upon existing knowledge that is refined or revised with new research. The logic model specifically describes the changes expected within the target population(s), why it is likely that these changes would result from the proposed prevention services and activities, and how this logically relates to the needs assessment.

M. Definitions beginning with letter "M":

(1) **Managed care organization (MCO):** An organization that contracts with the state of New Mexico to provide a variety of health care services to individuals who are enrolled.

(2) **Management letter:** A document signed by the co-chairs of the collaborative and a representative of the BHE authorized to bind the BHE that describes a certain task or activity to be pursued or conducted by the BHE, the specific approach to that task or activity, the expected result and the schedule to be followed to implement the task or activity. Such letters are not intended to be amendments to the BHE contract, but more specific directions for completing contract requirements.

(3) **Medicaid:** The medical assistance program authorized under Title XIX and Title XXI of the Social Security Act or its successors, furnished to New Mexico residents who meet specific eligibility requirements.

(4) **Medically necessary services:** Clinical and rehabilitative physical, mental or behavioral health services that:

(a) are essential to prevent, diagnose or treat medical or behavioral health conditions or are essential to enable the consumer to attain, maintain or regain the consumer's optimal functional capacity;

(b) are delivered in the amount, duration, scope and setting that is both sufficient and effective to reasonably achieve their purposes and clinically appropriate to the specific physical, mental and behavioral health care needs of the consumer;

(c) are provided within professionally accepted standards of practice and national guidelines; and

(d) are required to meet the physical, mental and behavioral health needs of the consumer and are not primarily for the convenience of the consumer, the provider or the BHE. (Subparagraphs (a) and (b) of Paragraph (7) of Subsection M of 8.305.1.7 NMAC)

N. Definitions beginning with letter "N":

(1) **Network provider:** An individual provider, clinic, group, association or facility employed by or contracted with a BHE to furnish covered behavioral health services to consumers under the provisions of the BHE contract.

(2) **Non-network provider:** An individual provider, clinic, group, association or facility that provides covered services and does not have a contract with the BHE.

O. [RESERVED]

P. Definitions beginning with letter "P":

(1) **Peer specialist:** An approved provider who is certified as a peer specialist through a state approved certification program. (Paragraph (4) of Subsection A of 8.315.6.10 NMAC)

(2) **Performance measures:** A system of operational and tracking indicators specified by state or federal requirements or the collaborative, including but not limited to the federal national outcome measures (NOMS).

(3) **Prevention services:** Services that follow current national standards for prevention including both physical and behavioral health.

(4) **Prevention provider:** A provider under contract for the exclusive or primary purpose of providing services designed to prevent or reduce the prevalence of substance abuse, mental illness, or other specified behavioral health disorders.

(5) **Psychosocial necessity:** Services or products provided to a consumer with the goal of helping that individual develop to his/her fullest capacities through learning and environmental supports and reduce the risk of the consumer developing a behavioral health disorder or an increase in the severity of behavioral health symptoms. The consumer need not have a behavioral health diagnosis but rather have a need to improve psychosocial functioning.

Q. [RESERVED]

R. Definitions beginning with letter "R":

(1) **Recovery:** Behavioral health recovery is an individual's personal journey of healing and transformation enabling a person with a behavioral health problem to live a meaningful life in a community of his or her choice while striving to achieve his or her full potential.

(2) **Re-credentialing:** A systematic process whereby the BHE verifies and warrants that an employed or affiliated behavioral health professional who is currently credentialed, continues to meet specified practice standards, including education, experience, licensure and certification.

(3) **Resiliency:** A global term describing a dynamic process, whereby people overcome adversity and go on with their lives in a productive and self-satisfying manner.

(4) **Responsible offeror:** An offeror who submits a response proposal and who has furnished, when required, information and data to prove that the offeror's financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services or items of tangible personal property described in the proposal.

S. Definitions beginning with letter "S":

(1) **Selective prevention:** Prevention interventions targeted at a subgroup of the general population that is determined to be at risk for sexual assault, substance abuse or mental illness.

(2) **State:** The state of New Mexico, including any entity or agency of the state and including but not limited to the collaborative and member agencies.

(3) **Subcontract:** A written agreement between the BHE and a third party, or between a subcontractor and another subcontractor, to provide services, and where appropriate approved by the collaborative.

(4) **Subcontractor:** A third party who contracts with the BHE or a BHE subcontractor for the provision of services.

(5) **Supported employment:** Integrated work for not less than the federal minimum wage in a setting with ongoing support services for individuals with severe disabilities for whom competitive employment:

(a) has not traditionally occurred;

(b) has been interrupted or intermittent as a result of severe disability, and who,

(c) because of the nature and severity of their disabilities need intensive physical, educational, social or psychological support to perform work.

(6) **Supportive housing:** Permanent housing that is affordable to individuals with low or no incomes, is chosen by the individual, which a person retains even if their service needs change, and which is an essential ingredient to foster and support a person's journey towards recovery and resiliency.

T. [RESERVED]

U. Definitions beginning with letter "U": **Universal prevention:** Prevention interventions intended to reach the entire population or a large share of it, without regard to individual risk factors.

V - Z [RESERVED]

[7.21.1.7 NMAC - N, 9-1-11; A, 1-15-13]

7.21.1.8 MISSION STATEMENT: The mission of the collaborative is to ensure that quality behavioral health services are provided to both medicaid and non-medicaid consumers; that providers are reimbursed timely and accurately; that services promote prevention, recovery, resilience in consumers, and that available resources are used in the most efficient and effective manner. This mission serves the collaborative's vision of establishing a single service delivery system in which consumers and family members are assisted in participating fully in the life of their communities; support of recovery and development of resiliency are expected; behavioral health is promoted; and the adverse effects of substance abuse and mental illness are prevented or reduced.

[7.21.1.8 NMAC - N, 9-1-11; A, 1-15-13]

HISTORY OF 7.21.1 NMAC: [RESERVED]