

County of Marin Behavioral Health and Recovery Services (BHRS)	POLICY NO. BHRS-26
	Next Review Date: April 2027
POLICY:	Date Approved: April 19, 2024
<u>SUBSTANCE USE SERVICES MEDICAL NECESSITY</u>	By:  Todd Schirmer, PhD, CCHP Director of Behavioral Health and Recovery Services

POLICY: SUBSTANCE USE SERVICES MEDICAL NECESSITY AND LEVEL OF CARE DETERMINATION REQUIREMENTS

I. PURPOSE:

The purpose of this policy is to ensure that Marin Medi-Cal members and low income uninsured (<138% FPL) community members are able to receive DMC-ODS services consistent with specific assessment, access and level of care determination criteria, and it is clearly documented in the member’s record. Throughout this Policy, note that services for Marin County low income uninsured community members are not claimed to Medi-Cal.

II. REFERENCES:

- Title 22 Regulations, CCR § 51303, 22 CCR § 51341.1
- Title 9, CCR
- W&I Code Section 14059.5
- Substance Use Prevention and Treatment Block Grant (SUBG) Performance Contract State/Marin County DMC-ODS Intergovernmental Agreement (IA)
- Policy BHRS-77 Residential Authorization
- Drug/Medi-Cal Organized Delivery System (DMC-ODS) Standard Terms and Conditions (STCs)
- DHCS BH Information Notice 24-001: DMC-ODS Requirements for 2022 - 2026

III. POLICY:

It is the policy of County BHRS to ensure clients receiving services as part of the continuum of substance use services, whether as a Marin Medi-Cal member or low income uninsured Marin resident, receive substance use services consistent with specific assessment, access and level of care determination criteria. Clients whose county of responsibility is Marin County will be assessed for medical necessity and ASAM Criteria through either the BHRS Access Line or directly with ASAM-trained DMC-ODS service providers.

Medical Necessity definition:

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Pursuant to W&I Code section 14059.5(a), for individuals 21 years of age or older, a service is “medically necessary” or a “medical necessity” when it is reasonable and necessary to protect life, to prevent significant illness or significant disability, or to alleviate severe pain. For individuals under 21 years of age, a service is “medically necessary” or a “medical necessity” if the service is necessary to correct or ameliorate screened health conditions. Consistent with federal guidance, services need not be curative or completely restorative to ameliorate a health condition, including substance misuse and SUDs. Services that sustain, support, improve, or make more tolerable substance misuse or an SUD are considered to ameliorate the condition and are thus covered as EPSDT services. (Section 1396d(r)(5) of Title 42 of the United States Code; W&I Section 14059.5(b)(1)).

Initial Assessment and Services Provided During the Assessment Process

Pursuant to Welfare and Institutions Code section 14184.402(f)(1)(A), an SUD diagnosis is not a prerequisite for access to covered DMC-ODS services. Covered and clinically appropriate DMC-ODS services are Medi-Cal reimbursable during the assessment process, whether or not a Diagnostic and Statistical Manual of Mental Disorder (DSM) diagnosis for Substance-Related and Addictive Disorders is immediately established. Specific level-of-care assessment and authorization policies remain in effect for Residential Treatment Services and Withdrawal Management Services.

DMC-ODS Access Criteria for Clients After Assessment – *Diagnosis and Medical Necessity*

To qualify for DMC-ODS services for adult members (an individual age 21 and over) after the initial assessment is determined using the following criteria:

- a. The individual must have received at least one diagnosis from the Diagnostic and Statistical Manual of Mental Disorders (DSM) for Substance-Related and Addictive Disorders with the exception of Tobacco-Related Disorders and Non-Substance-Related Disorders; or
- b. Have had at least one diagnosis from the DSM for Substance-Related and Addictive Disorders, with the exception of Tobacco-Related Disorders and Non-Substance-Related Disorders, prior to being incarcerated or during incarceration, determined by substance use history; and
- c. DMC-ODS services must be medically necessary. See definition above.

To qualify for DMC-ODS services for clients under the age of 21: Individuals under age 21 are eligible to receive all medically necessary DMC-ODS services pursuant to the Early Periodic Screening, Diagnostic and Treatment (EPSDT) mandate. Under the EPSDT mandate, a service is medically necessary services if the services is necessary to correct and ameliorate screened health conditions, regardless if covered in the State’s Medicaid Plan. Consistent with federal guidance, services need not be curative or

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completely restorative to ameliorate a health condition, including substance misuse and SUDs. Services that sustain, support, improve, or make more tolerable substance misuse or an SUD are considered to ameliorate the condition and are thus covered as EPSDT services. DMC-ODS plans are obligated to provide early intervention services under the outpatient modality to members under the age of 21 at risk of developing an SUD, regardless of whether they meet diagnostic criteria for SUD, and even if the member is not participating in the full array of outpatient treatment services.

Other Coverage Requirements

For dates of service on or after January 1, 2022, in addition to providing and reimbursing for services prior to determination of a diagnosis or prior to determination of whether DMC-ODS criteria are met as outlined in this Policy, covered services are also reimbursable when:

1. The clinically appropriate and covered substance use prevention, screening, assessment, treatment, or recovery services were not included in an individual treatment plan, or lack of client signature on the treatment plan; or
2. The client has a co-occurring mental health condition. Marin DMC-ODS shall not disallow reimbursement for covered DMC-ODS services provided to a client who has a co-occurring mental health condition if the client meets the DMC-ODS Criteria for Clients After Assessment.

The ASAM Criteria shall be used to determine placement into the appropriate level of care for all members and is separate and distinct from determining medical necessity. Residential and inpatient DMC-ODS services are subject to prior authorization.

IV. AUTHORITY/RESPONSIBILITY:

Alcohol and Drug Administrator
 BHRS Director
 BHRS Quality Management
 BHRS Access
 Contract Managers

V. PROCEDURE:

1. The initial assessment for an individual to receive services must be performed through a face-to-face review or telehealth (synchronous audio and video) or by telephone (synchronous audio-only) by a Licensed Practitioner of the Healing Arts (LPHA) or registered or certified counselor, and may be done in the community or at home. If the assessment of the client is completed by a registered or certified counselor, then the LPHA shall evaluate that assessment with the counselor and the LPHA shall make the initial diagnosis. The consultation between the LPHA and the

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registered or certified counselor can be conducted in person, by video conferencing, or by telephone. After establishing a diagnosis, the American Society of Addiction Medicine (ASAM) Criteria shall be applied to determine placement into the appropriate level of care.

2. If the entity screening or assessing the client determines that the medical necessity criteria has not been met and that the client is not entitled to the particular level of care being sought or any substance use disorder treatment services from the Marin County DMC-ODS, then a written Notice of Adverse Benefit Determination (NOABD) will be issued in accordance with 42 CFR 438.404. However, clinically appropriate and covered DMC-ODS services provided to clients over 21 are reimbursable during the initial assessment process and Marin DMC-ODS shall not disallow reimbursement for clinically appropriate and covered DMC-ODS services provided during the assessment process if the assessment determines that the client does not meet the DMC-ODS Access Criteria for Members After Assessment.
 - a. IDC-10 Codes are still required for all Medi-Cal claims, even where services are provided due to a suspected SUD that has not yet been diagnosed. Refer to the most current DHCS BHIN for approved IDC-10 diagnosis codes.
3. Excluding Residential and OTP services, per BHIN 23-068, re-assessments for SUD services should now be conducted based on a member's needs and clinical discretion. For an individual to receive ongoing Opioid Treatment Program/Narcotic Treatment Program (OTP/NTP) services, the Medical Director, licensed physician, or LPHA reauthorization is required annually. For Residential treatment services, DMC-ODS providers shall follow the Treatment Authorization procedures outlined in Policy BHRS-77.
4. The Medical Necessity determination shall be documented in accordance with the timeframes and requirements outlined in the applicable sections of Title 9, DMC-ODS STCs and applicable DHCS BHINs.

Contractor compliance with this policy shall be achieved through:

1. Distribution of the Contractor Manual, which includes information about Policies, Procedures and contract requirements, annually at contract renewal.
2. Approval of contract as to form and legal affect by county counsel, signature of Contractor on contract agreeing to all conditions set forth in the contract, and approval and execution of contract by the County Board of Supervisors or County Administrative Officer.
3. BHRS Quality Management staff performs a utilization review of a sample of files on a quarterly basis, including new client admissions to treatment. Staff will review documentation demonstrating that the client meets medical necessity criteria, is in

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the appropriate ASAM level of care, and that the interventions are appropriate for the diagnosis(es) and level of care.

4. If BHRS Quality Management identifies deficiencies related to medical necessity, claims will not be submitted to DHCS and the Provider will be required to submit a Plan of Correction to BHRS. If claims have already been submitted to DHCS, Marin BHRS will void as applicable and include in the Annual Void Reporting.
5. At annual Site Visit, Contract Manager shall review contractor policy and procedures regarding medical necessity, as well as shall review client records for evidence of meeting medical necessity, and Continuing Services Justifications and NOABDs, if applicable. Employee files and training logs will be reviewed in order to ensure ASAM and DMC-ODS training requirements are being met within the appropriate timeframe, and policies and procedures are being followed in accordance with regulations.

County-operated service compliance shall be achieved through:

1. Approval of State-County Intergovernmental Agreement by Board of Supervisors or authorized designee agreeing to all conditions set forth in the contract.
2. BHRS Quality Management staff performs a utilization review a sample of files on a quarterly basis including new client admissions to treatment. Staff will review documentation demonstrating that the client meets medical necessity criteria, is in the appropriate ASAM level of care, and that the interventions are appropriate for the diagnosis(es) and level of care.
3. If BHRS Quality Management identifies deficiencies related to medical necessity, claims will not be submitted to DHCS and a Plan of Correction will be required. If claims have already been submitted to DHCS, Marin BHRS will void as applicable and include in the Annual Void Reporting.
4. Annual completion of Self-Audit, including County Alcohol & Drug Administrator's signed attestation of adherence to all laws and regulations.
5. At annual Site Visit, Quality Management staff shall review contractor policy and procedures regarding medical necessity, as well as shall review client records for evidence of meeting medical necessity, and Continuing Services Justifications and NOABDs, if applicable. Employee files and training logs will be reviewed in order to ensure ASAM and DMC-ODS training requirements are being met within the appropriate timeframe, and policies and procedures are being followed in accordance with regulations.