

DEPARTMENT OF BEHAVIORAL HEALTH

NOTICE OF EMERGENCY AND PROPOSED 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, on an emergency basis, of updates to Chapter 34 (Mental Health Rehabilitation Services Provider Certification Standards) in Subtitle A (Mental Health) of Title 22 (Health) of the District of Columbia Municipal Regulations (DCMR).

The Department's Mental Health Rehabilitation Services (MHRS) benefit provides consumers with Counseling as a core service through Department-certified MHRS providers. The current regulation does not include two (2) trauma-specific services: 1) Trauma Recovery and Empowerment Model (TREM), and 2) Trauma Systems Therapy (TST). Providers who wish to provide these trauma-specific services can only bill under the general category of Counseling, a service definition that lacks the specific regulatory requirements to ensure that TREM and TST are provided with fidelity to the models.

The Department, in partnership with the Department of Health Care Finance, submitted a Section 1115 Behavioral Health Transformation Demonstration Program (demonstration program) application to the Centers for Medicare and Medicaid Services (CMS) on June 3, 2019 and received federal approval on November 6, 2019. Under the demonstration program, the District received authority to provide new behavioral health services reimbursed by the Medicaid program. This includes making TREM and TST a specialty service, apart from the core service of Counseling, and increasing the reimbursement rate for TREM and TST in order to: 1) more accurately value these services, and 2) increase the availability of trauma-specific services in the District. The goals of this demonstration program are to increase access to a broader continuum of behavioral health services for District Medicaid beneficiaries, advance the District's goals in the Opioid Strategic Plan *Live. Long. DC.*, and support a more person-centered system of physical and behavioral health care. Further information on the demonstration program is available at <https://dhcf.dc.gov/1115-waiver-initiative>.

The purpose of the updates to the Chapter 34 rule is to implement new certification standards for providers to specifically become certified as TREM and TST providers in the MHRS program. This will allow certified providers to bill the higher reimbursement rate for TREM and TST beginning March 1, 2020. These certification standards are to ensure that TREM and TST provider staff is appropriately trained in the respective modalities and are able to deliver high quality care.

Emergency rulemaking is critical to public health as the rule establishes provider certification standards governing the provision of TREM and TST. Additionally, to meet the deadlines of the Section 1115 waiver demonstration implementation plan, the Department requires the Emergency Rules to begin appropriate work immediately.

These emergency rules were adopted on January 14, 2020 and became effective on that date. The emergency rules shall remain in effect for no longer than one hundred and twenty (120) calendar days, or May 13, 2020, unless superseded by publication of subsequent rulemaking in the *D.C. Register*.

The Director also gives notice of the intent to take final rulemaking action to adopt this rule not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Chapter 34, MENTAL HEALTH REHABILITATION SERVICES PROVIDER CERTIFICATION STANDARDS, of Title 22-A DCMR, MENTAL HEALTH, is amended to read as follows:

Section 3402, SERVICE COVERAGE, is amended by amending § 3402.4 to read as follows:

3402.4 Rehabilitative services covered as Mental Health Rehabilitation Services (MHRS) are:

- (a) Diagnostic/Assessment;
- (b) Medication/Somatic Treatment;
- (c) Counseling;
- (d) Community Support;
- (e) Crisis/Emergency;
- (f) Rehabilitation/Day Services;
- (g) Intensive Day Treatment;
- (h) Community-Based Intervention (CBI);
- (i) Assertive Community Treatment (ACT);
- (j) Psychosocial Rehabilitation Clubhouse;
- (k) Trauma Recovery and Empowerment Model (TREM); and
- (l) Trauma Systems Therapy (TST).

Section 3402, SERVICE COVERAGE, is amended by amending § 3402.8(e) to read as follows:

3402.8

...

- (e) The service shall be delivered in accordance with the service specific standards set forth in § 3414, § 3415, § 3416, § 3417, § 3418, § 3419, § 3420, § 3421, § 3422, § 3423, § 3429, and § 3430.

Section 3410, MHRS PROVIDER QUALIFICATIONS: GENERAL, is amended by amending § 3410.13 to read as follows:

3410.13 Each MHRS provider shall establish and adhere to policies and procedures requiring that treatment be provided in accordance with the service specific standards in § 3414, § 3415, § 3416, § 3417, § 3418, § 3419, § 3420, § 3421, § 3422, § 3423, § 3429, and § 3430 (Service Specific Policy). The Service Specific Policy shall:

- (a) Address supervision requirements and required caseload ratios that are appropriate to the population served and treatment modalities employed; and
- (b) Include a written description of the services offered by the MHRS provider (Service Description) describing the purpose of the service, the hours of operation, the intended population to be served, treatment modalities provided by the service, treatment objectives, and expected outcomes.

Section 3413, QUALIFIED PRACTITIONERS AND CREDENTIALLED STAFF, is amended by amending § 3413.1 to read as follows:

3413.1 MHRS shall be provided by qualified practitioners either directly or under the supervision of another qualified practitioner as set forth in this chapter. Qualified practitioners are:

- (a) Psychiatrists;
- (b) Psychologists;
- (c) Licensed Independent Clinical Social Workers (LICSWs);
- (d) Advanced Practice Registered Nurses (APRNs);
- (e) Registered Nurses (RNs);
- (f) Licensed Professional Counselor (LPC);

- (g) Licensed Independent Social Workers (LISWs);
- (h) Certified Addiction Counselors;
- (i) Licensed Marriage and Family Therapists (LMFTs);
- (j) Licensed Graduate Social Workers (LGSWs);
- (k) Licensed Graduate Professional Counselors (LGPCs); and
- (l) Psychology Associates.

§ 3413.7 is amended to read as follows:

3413.7 Qualified practitioners are authorized to provide MHRS as described below:

- (a) Psychiatrists are authorized to provide:
 - (1) Diagnostic/Assessment;
 - (2) Medication/Somatic Treatment;
 - (3) Counseling;
 - (4) Community Support;
 - (5) Crisis/Emergency;
 - (6) Rehabilitation/Day Services;
 - (7) Intensive Day Treatment;
 - (8) CBI;
 - (9) ACT;
 - (10) TREM; and
 - (11) TST.
- (b) Psychologists are authorized to provide:
 - (1) Diagnostic/Assessment;

- (2) Counseling;
- (3) Community Support;
- (4) Crisis/Emergency;
- (5) Rehabilitation/Day Services;
- (6) Intensive Day Treatment;
- (7) CBI;
- (8) ACT;
- (9) TREM; and
- (10) TST.

(c) LICSWs are authorized to provide:

- (1) Diagnostic/Assessment;
- (2) Counseling;
- (3) Community Support;
- (4) Crisis/Emergency;
- (5) Rehabilitation/Day Services;
- (6) Intensive Day Treatment;
- (7) CBI;
- (8) TREM; and
- (9) TST.

(d) LISWs are authorized to provide:

- (1) Diagnostic/Assessment;
- (2) Counseling;
- (3) Community Support

- (4) Crisis/Emergency;
- (5) Rehabilitation/Day Services;
- (6) Intensive Day Treatment;
- (7) CBI;
- (8) TREM; and
- (9) TST.

(e) APRNs are authorized to provide:

- (1) Diagnostic/Assessment;
- (2) Medication/Somatic Treatment;
- (3) Counseling;
- (4) Community Support;
- (5) Crisis/Emergency;
- (6) Rehabilitation/Day Services;
- (7) Intensive Day Treatment;
- (8) CBI;
- (9) ACT;
- (10) TREM; and
- (11) TST.

(f) RNs are authorized to provide:

- (1) Diagnostic/Assessment (assessment only);
- (2) Medication/Somatic Treatment;
- (3) Counseling;
- (4) Community Support;

- (5) Rehabilitation/Day Services;
 - (6) Intensive Day Treatment;
 - (7) CBI; and
 - (8) ACT.
- (g) LPCs are authorized to provide:
- (1) Diagnostic/Assessment (assessment only);
 - (2) Counseling;
 - (3) Community Support;
 - (4) Rehabilitation/Day Services;
 - (5) Intensive Day Treatment;
 - (6) CBI;
 - (7) TREM; and
 - (8) TST;
- (h) Certified Addiction Counselors are authorized to provide:
- (1) Diagnostic/Assessment (assessment only);
 - (2) Counseling;
 - (3) Community Support;
 - (4) Rehabilitation/Day Services;
 - (5) Intensive Day Treatment;
 - (6) CBI; and
 - (7) ACT.
- (i) Licensed Marriage and Family Therapists are authorized to provide:
- (1) TREM; and

- (2) TST.
- (j) Licensed Graduate Social Workers are authorized to provide:
 - (1) TREM; and
 - (2) TST.
- (k) Licensed Graduate Professional Counselors are authorized to provide:
 - (1) TREM; and
 - (2) TST.
- (l) Psychology Associates are authorized to provide:
 - (1) TREM; and
 - (2) TST.

§ 3413.8 is amended by adding two additional rows to read as follows:

TREM	<ul style="list-style-type: none"> • Psychiatrists • Psychologists • LICSWs • APRNs with psychiatry as a specialty area of practice • LMFTs • LPCs 	<ul style="list-style-type: none"> • LISWs • LGSWs • LGPCs • Psychology Associates
TST	<ul style="list-style-type: none"> • Psychiatrists • Psychologists • LICSWs • APRNs with psychiatry as a specialty area of practice • LMFTs • LPCs 	<ul style="list-style-type: none"> • LGSWs • LGPCs • LISWs • Psychology Associates

Section 3414, COVERED MHRS, is amended by amending § 3414.3 to read as follows:

3414.3 Covered specialty services shall be Crisis/Emergency, Rehabilitation/Day Services, Intensive Day Treatment, CBI, ACT, TREM, and TST.

Section 3417, COUNSELING, is amended by amending § 3417.4 to read as follows:

3417.4 Counseling shall not be billed on the same day as:

- (a) Rehabilitation/Day Services;

Diagnostic/ Assessment	<ul style="list-style-type: none"> • One (1) every six (6) months • Additional units allowable when pre-authorized for periodic assessment, pre-hospitalization screening, neuropsychological assessment and re-admission to Rehabilitation/Day Services • Shall not be billed the same day as ACT • Provided only in a community-based MHRS provider or other community setting, or residential facility of sixteen (16) beds or less 	An assessment, which is at least three (3) hours in duration
Medication/Somatic Treatment	<ul style="list-style-type: none"> • No annual limit • Shall not be billed the same day as ACT • Provided only in a community-based MHRS provider or other community setting, or residential facility of sixteen (16) beds or less 	Fifteen (15) minutes
Counseling	<ul style="list-style-type: none"> • One hundred sixty (160) units per year • Additional units allowable with prior authorization by DMH • Shall not be billed the same day as Rehabilitation/Day Services, Intensive Day Treatment, CBI, ACT, or TST • CPP-FV Counseling and TF-CBT Counseling shall not be billed on the same day as TREM or TST • Shall be rendered face-to-face, when consumer is present, unless there is adequate documentation to justify why the consumer was not present during the session • May be provided in individual on-site, individual off- site or group • Provided only in a community-based MHRS provider or other community setting, or residential facility of sixteen (16) beds or less 	Fifteen (15) minutes
Community Support	<ul style="list-style-type: none"> • No annual limits • Shall not be billed on the same day as ACT • May be provided individually or in a group • Provided only in a community-based MHRS provider or other community 	Fifteen (15) minutes

	setting, or residential facility of sixteen (16) beds or less	
Crisis/ Emergency	<ul style="list-style-type: none"> • No annual limits • Provided only in a community-based MHRS provider or other community setting, or residential facility of sixteen (16) beds or less 	Fifteen (15) minutes
Rehabilitation/Day Services	<ul style="list-style-type: none"> • Ninety (90) days within a twelve (12) month period • Additional units allowable with prior authorization by DMH Shall not be billed on the same day as Counseling • Shall not be billed on the same day as Counseling, ACT, TREM, or TST • Provided only in a community-based MHRS provider or other community setting, or residential facility of sixteen (16) beds or less 	One (1) day (which shall consist of at least three (3) hours)
Intensive Day Treatment	<ul style="list-style-type: none"> • Seven (7) days • Additional units allowable after seven (7) days or for the second and any additional episodes of care within a twelve (12) month period with prior authorization by DMH • Shall not be billed on the same day as any other MHRS, except for Crisis/Emergency, Community Support and CBI. • Up to three (3) hours of Diagnostic/Assessment may be billed during each episode of Intensive Day Treatment • Provided only in a community-based MHRS provider Intensive Day Treatment Facility 	One (1) day (which shall consist of at least five (5) hours)
CBI	<ul style="list-style-type: none"> • Prior authorization from DMH required for enrollment • Shall not be billed on the same day as ACT, Counseling, Intensive Day Treatment, TREM, or TST • Provided only in a community-based MHRS provider or other community setting, or residential facility of sixteen (16) beds or less 	One (1) hour (or part thereof)
Assertive	<ul style="list-style-type: none"> • Prior authorization from DMH required 	One (1) hour (or part

Community Treatment	<p>for enrollment</p> <ul style="list-style-type: none"> • Shall not be billed on the same day as any other MHRS, except for Crisis/Emergency with retrospective authorization 	thereof)
TREM	<ul style="list-style-type: none"> • TREM shall not be billed on the same day as Rehabilitation Day Services, IDT, CBI, ACT, CPP, or TF-CBT • Provided only in an MHRS provider's service site, or residential facility of sixteen (16) beds or less unless otherwise stated by the Department 	Fifteen (15) minutes
TST	<ul style="list-style-type: none"> • TREM shall not be billed on the same day as Counseling, Rehabilitation/Day Services, IDT, CBI, ACT, CPP, or TF-CBT • Provided only in an MHRS provider's service site, or in natural settings, including the home or community settings 	Fifteen (15) minutes

A new Section 3429 is added to read as follows:

3429 TRAUMA RECOVERY AND EMPOWERMENT MODEL

3429.1 TREM is a structured group therapy intervention designed for individuals who have survived trauma and have substance use disorders and/or mental health conditions. TREM draws on cognitive restructuring, skills training, and psychoeducational and peer support to address recovery and healing from sexual, physical, and emotional abuse. A curriculum for each model outlines the topic of discussion, a rationale, a set of goals, and a series of questions to be posed to the group in addition to an experiential exercise for each session.

3429.2 The TREM components are:

- (a) Therapy sessions focused on empowerment, self-comfort, and accurate self-monitoring, as well as ways to establish safe physical and emotional boundaries;
- (b) Therapy sessions focused on the trauma experience and its consequences; and
- (c) Therapy sessions focused on skills building, including emphases on communication style, decision-making, regulating overwhelming feelings, and establishing safer, more reciprocal relationships.

- 3429.3 Each TREM group is population specific and on average consists of eighteen (18) to twenty-four (24) sessions, with each session at least seventy-five (75) minutes in duration. Population-specific groups include:
- (a) TREM for women;
 - (b) TREM for men;
 - (c) TREM for girls twelve (12) to eighteen (18) years of age;
 - (d) TREM for boys twelve (12) to eighteen (18) years of age; and
 - (e) TREM for individuals who are lesbian, gay, bisexual, transgender, questioning, intersex, or asexual (groups for either individuals under eighteen (18) or individuals eighteen (18) years of age and over).
- 3429.4 Due to the sensitive nature of the discussions, TREM requires at least two (2) facilitators to be assigned to every group to ensure the safety and continuity of the group. At least one (1) facilitator must be an independently licensed qualified practitioner. A team approach is required to: address situations that may arise within the group; decrease burnout; provide continuity if one facilitator is absent; and to lend additional therapeutic support to the group. Qualified practitioners staff working as facilitators must have completed Department-approved, population-specific TREM training.
- 3429.5 TREM may be provided without prior authorization from the Department.
- 3429.6 TREM shall not be billed on the same day as:
- (a) Rehabilitation/Day Services;
 - (b) Intensive Day Treatment;
 - (c) CBI;
 - (d) ACT;
 - (e) CPP; or
 - (f) TF-CBT.
- 3429.7 TREM shall be provided:
- (a) At the MHRS provider's service site; or

- (b) In a residential facility of sixteen (16) beds or less unless otherwise stated by the Department.

3429.8 Qualified Practitioners of TREM are:

- (a) Psychiatrists;
- (b) Psychologists;
- (c) LICSWs;
- (d) APRNs with psychiatry as a specialty area of practice;
- (e) LMFTs;
- (f) LPCs;
- (g) LISWs;
- (h) LGSWs;
- (i) LGPCs; and
- (j) Psychology Associates.

3429.9 Certified Recovery Coaches, Certified Peer Specialists, and Certified Addiction Counselors I and II who have successfully completed a TREM group and Department-approved TREM training shall be authorized to support TREM services under the supervision of the two (2) group facilitators.

A new Section 3430 is added to read as follows:

3430 TRAUMA SYSTEMS THERAPY

3430.1 TST is a comprehensive, phase-based model for treating traumatic stress in children and adolescents that adds to individually-based approaches by specifically addressing the child's social environment and/or system of care. TST is designed to provide an integrated highly coordinated system of services guided by the specific understanding of the nature of child traumatic stress. TST focuses on the interaction between the child's difficulties regulating their emotions and the deficits within the child's social environment. The three (3) phases of the model are Safety-Focused, Regulation-Focused, and Beyond Trauma.

3430.2 On average, individual TST sessions are one (1) to three (3) sessions per week, depending on the phase of treatment. Sessions are on average forty-five (45) to sixty (60) minutes in duration.

- 3430.3 TST is intended for children and youth ages six (6) through eighteen (18) years of age, who have:
- (a) Been exposed to trauma;
 - (b) Plausible trauma histories;
 - (c) Difficulty regulating emotional and behavioral states;
 - (d) Dysregulation that is plausibly related to the trauma history; and
 - (e) Stable housing or a plan to achieve stable housing in the community.
- 3430.4 At a minimum, the TST team shall include:
- (a) A TST-trained supervisor who provides the clinical and administrative supervision of the TST team. The supervisor shall be an independently licensed qualified practitioner experienced in providing individual, group, marital, or family counseling or psychotherapy;
 - (b) Access to a psychiatrist to monitor each youth's clinical status and response to treatment, and to direct psychopharmacologic treatment or consult with the consumer's psychopharmacologic treatment team. The psychiatrist shall be knowledgeable in TST ("be TST-informed");
 - (c) TST-trained therapists who provide individual therapy. Therapists shall hold a Master's degree in psychology, social work, counseling, or other related field and shall be appropriately licensed by the jurisdiction where services are delivered and practice within the scope of their license.
 - (d) TST-trained individuals who are qualified practitioners of Community-Based Intervention or who are credentialed to provide Community Support to provide crisis support, care coordination, skills building, and TST treatment plan support; and
 - (e) Individuals who provide Legal Advocacy Support and who are knowledgeable in TST ("are TST-informed").
- 3430.5 All TST supervisors and therapists shall have completed DBH-approved TST training.
- 3430.6 Providers of TST services shall maintain certification as a TST provider from a DBH-approved training entity.
- 3430.7 TST shall not require prior authorization.

3430.8 TST shall not be billed on the same day as:

- (a) Counseling;
- (b) Rehabilitation/Day Services;
- (c) Intensive Day Treatment
- (d) CBI;
- (e) ACT;
- (f) CPP; or
- (g) TF-CBT.

3430.9 TST shall be provided:

- (a) At the MHRS provider's service site; or
- (b) In natural settings, including the consumer's home or community settings.

3430.10 Qualified Practitioners of TST are:

- (a) Psychiatrists;
- (b) Psychologists;
- (c) LICSWs;
- (d) APRNs with psychiatry as a specialty area of practice;
- (e) LMFTs;
- (f) LPCs;
- (g) LGSWs;
- (h) LGPCs;
- (i) LISWs; and
- (j) Psychology Associates.

3430.11 Services provided by qualified practitioners who are subject to supervision requirements, per applicable licensing and registration laws and regulations, shall be supervised by a qualified practitioner who is:

- (a) Licensed to practice independently, and
- (b) Trained in TST, as required by this Chapter's TST requirements.

Section 3499, DEFINITIONS, is amended by amending § 3499.1 as follows:

The definition of "service specific standards" is amended to read as follows:

Service specific standards - the certification standards described in § 3414, § 3415, § 3416, § 3417, § 3418, § 3419, § 3420, § 3421, § 3422, § 3423, § 3429, and § 3430 which set forth the specific requirements applicable to each MHRS.

The definition of "specialty services" is amended to read as follows:

Specialty services - Assertive Community Treatment, Community-Based Interventions, Clubhouse, Crisis Intervention/Emergency, Intensive Day Treatment, Rehabilitation/Day Services, Trauma Recovery and Empowerment Model, and Trauma Systems Therapy.

All persons desiring to comment on the subject matter of this proposed rule should file comments in writing not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Trina Dutta, Director, Strategic Management and Policy Division, Department of Behavioral Health, 64 New York Ave, N.E., Second Floor, Washington, D.C. 20002, (202) 671-4075, trina.dutta@dc.gov, or DBHpubliccomments@dc.gov.