

# Regulatory Analysis Form

JUL 30

<p>(1) Agency</p> <p>Department of Public Welfare Office of Medical Assistance Programs</p>	<p>This space for use by IRRC</p> <p style="text-align: center;">2001 SEP 13 PM 3:09 REVIEW COMMISSION</p> <p>IRRC Number: <u>2219</u></p>
<p>(2) I.D. Number (Governor's Office Use)</p> <p style="text-align: center;"><u>14-453</u></p>	
<p>(3) Short Title</p> <p>Outpatient Drug and Alcohol Clinic Services</p>	
<p>(4) PA Code Cite</p> <p>55 Pa. Code Chapter 1223</p>	<p>(5) Agency Contacts &amp; Telephone Numbers</p> <p>Primary Contact: Richard Madey 772-6142</p> <p>Secondary Contact: Linda Miller 772-6522</p>
<p>(6) Type of Rule Making (Check One)</p> <p><input type="checkbox"/> Proposed Rule Making</p> <p><input type="checkbox"/> Final Order Adopting Regulation</p> <p><input checked="" type="checkbox"/> Final Order, Proposed Rule Making Omitted</p>	<p>(7) Is a 120-Day Emergency Certification Attached?</p> <p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes: By the Attorney General</p> <p><input type="checkbox"/> Yes: By the Governor</p>
<p>(8) Briefly explain the regulation in clear and nontechnical language.</p> <p>The purpose is to amend 55 Pa. Code Chapter 1223 with regards to the MA enrollment policy for outpatient drug and alcohol clinics by being consistent with the Department of Health (DOH), Drug and Alcohol Program Licensing, by allowing drug and alcohol clinics with a provisional licenses to bill for covered MA services rendered to eligible MA recipients and delete references to obsolete Bureaus and Offices.</p>	
<p>(9) State the statutory authority for the regulation and any relevant state or federal court decisions.</p> <p>The Department amends this regulation pursuant to the authority of Sections 403(a) and (b), 443.3(1) and 509 of the Act of June 13, 1967 (P.L. 31, No. 21) (62 P.S. §§ 403(a) and (b), 443.3(1) and 509).</p>	
<p>(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.</p> <p>No.</p>	

12/30/98

## Regulatory Analysis Form

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

It helps to assure access to service and continuity of care for MA eligible recipients receiving drug and alcohol clinic services.

(12) State the public health, safety, environmental or general welfare risks associated with non-regulation.

None.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

MA eligible recipients will benefit by being able to continue services with the same provider.

Drug and alcohol clinics will benefit by continuing to bill for services rendered to eligible recipients while the clinic has a provisional license.

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

None.

*Steven Rossby*

## Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

(15) List the persons, groups or entities that will be required to comply with the regulation.  
(Approximate the number of people who will be required to comply.)

(16) Describe the communications with and input from the public in the development and drafting of the regulation.  
List the persons and/or groups who were involved, if applicable.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

Not applicable.

## Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

Not applicable.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

The purpose of this regulation is to amend the Medical Assistance (MA) enrollment policy for outpatient drug and alcohol clinics in order to maintain consistency with Department of Health (DOH), Drug and Alcohol Program Licensing, by allowing drug and alcohol clinics with a provisional license to bill for covered MA services rendered to eligible MA recipients and delete references to obsolete Bureaus and Offices.

It is expected that no costs or savings will result from this change to Department policy.

*Steve Rosskopf*

## Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

(Dollar Amounts In Thousands)

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>						
Regulated Community						
Local Government						
State Government						
<b>Total Savings</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>COSTS:</b>						
Regulated Community						
Local Government						
State Government						
<b>Total Costs</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>REVENUE LOSSES:</b>						
Regulated Community						
Local Government						
State Government						
<b>Total Revenue Losses</b>	\$0	\$0	\$0	\$0	\$0	\$0

(20a) Explain how the estimates listed above were derived.

N/A

## Regulatory Analysis Form

(20b) Provide the past three years expenditure history for programs affected by the regulation.

(Dollar Amounts In Thousands)

Program	FY -3	FY -2	FY -1	Current FY
MA-Outpatient	\$792,293	\$798,836	\$662,740	\$590,278

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

This change should benefit those recipients who require drug and alcohol treatment services and encounter a drug and alcoholic clinic with a provisional license. By allowing drug and alcohol clinics with provisional licenses to bill for covered services to eligible Medical Assistance recipients, recipients will be able to continue with the same provider.

Also, provisionally licensed clinics may continue to treat patients and receive reimbursement for covered services. Without this rule change, clinics would have to service recipients without reimbursement from Medical Assistance, seek reimbursement from the Medical Assistance recipient, refer Medical Assistance recipients to another provider or provide no service.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

# Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

## Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

No.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

Other states cover drug and alcohol services for eligible recipients. The providers must be licensed by the appropriate state agency. This will not put Pennsylvania at a competitive disadvantage.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No public hearings were conducted.

The Department of Public Welfare shared a draft of the regulation with Department of Health, Division of Drug and Alcohol Program Licensing, the Medical Assistance Advisory Committee (MAAC) and the Pennsylvania Community Providers Association.



## Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

No.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

None.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

A Notice of Rule Change was published at 28 Pa.B 1281 on March 7, 1998, effective March 1, 1998.

(31) Provide the schedule for continual review of the regulation.

The Department's Office of MA Programs will evaluate the effectiveness of this regulation on an on-going basis. Necessary and appropriate changes will be made in response to letters, recommendations and comments from other offices, agencies and individuals and as a result of Departmental findings.

CDL-1

FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

#2219

DATE: 11/3/01

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General

BY: \_\_\_\_\_  
(Deputy Attorney General)

\_\_\_\_\_  
Date of Approval

Check if applicable  
Copy not approved. Objections attached.

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

Department of Public Welfare  
(Agency)

LEGAL COUNSEL: \_\_\_\_\_

DOCUMENT/FISCAL NOTE NO. #14-453

DATE OF ADOPTION: \_\_\_\_\_

BY: D. Houston

TITLE: Secretary of Public Welfare  
(Executive Officer, Chairman or Secretary)

Copy below is hereby approved as to form and legality. Executive or Independent Agencies

BY: Howard G. Buehler

1/4/01  
Date of Approval

(Deputy General Counsel)  
(~~Chief Counsel, Independent Agency~~)  
(Strike inapplicable title)

Check if applicable. No Attorney General approval or objection within 30 days after submission.

NOTICE OF FINAL RULEMAKING WITHOUT PUBLICATION AS PROPOSED

DEPARTMENT OF PUBLIC WELFARE

OFFICE OF MEDICAL ASSISTANCE PROGRAMS

[55 Pa. Code Chapter 1223]

Outpatient Drug and Alcohol Clinic Services

### Statutory Authority

The Department of Public Welfare, by this Order, adopts the amended regulation set forth in Annex A pursuant to the authority of Section 443.3(1) of the Public Welfare Code, Act of June 13, 1967 (P.L. 31, No. 21) (62 P.S. §§ 443.3(1)). Notice of Rule Change was published at 28 Pa.B. 1281 on March 7, 1998.

Notice of proposed rulemaking is omitted in accordance with Section 204(1)(iv) of the Commonwealth Documents Law (CDL) (45 P.S. Section 1204(1)(iv)) and 1 Pa. Code Section 7.4(1)(iv) because administration regulations relate to Commonwealth benefits. Additionally, notice of proposed rulemaking is omitted for good cause as impractical, unnecessary and contrary to the public interest in accordance with Section 204(3) of the CDL (45 P.S. §1204(3)) and 1 Pa. Code §7.4(3) since further delay in implementing these regulations may result in undue hardship for eligible Medical Assistance recipients who do not have access to adequate drug and alcohol services.

### Purpose

The purpose of this regulation is to amend the medical assistance (MA) enrollment policy for outpatient drug and alcohol clinics to maintain consistency with Department of Health (DOH), Drug and Alcohol Program Licensing, by allowing drug and alcohol clinics with a provisional license to bill for covered MA services rendered to eligible MA recipients. This regulation also deletes references to obsolete Bureaus and Offices.

### Background

Current MA regulations (55 Pa. Code §1223.41) do not allow for reimbursement to drug and alcohol clinics with provisional licenses. Under the DOH regulations (28 Pa. Code Chapter 709), a drug and alcohol clinic with a provisional license may treat patients. New drug and alcohol clinics are issued provisional licenses for a six-month period following the site inspection by DOH. Within the six-month period, a clinic must demonstrate that it can provide the services in conformity with the regulations. If a clinic meets all licensing regulations for drug and alcohol clinics, the Division of Drug and Alcohol Program Licensing within DOH will issue the clinic a full license. If the clinic does not meet the licensing regulation within the six-month period, the clinic may receive any number of provisional licenses as determined by the DOH.

In addition, a fully licensed drug and alcohol clinic may receive a provisional license after its yearly inspection. If the clinic receives a provisional license, the clinic has six months to meet licensing regulations. If the clinic still does not meet licensing regulations, the clinic may receive any number of provisional licenses as determined by the DOH.

By allowing drug and alcohol clinics with provisional licenses to bill for covered services to eligible MA recipients, recipients will be able to continue with the same provider and so maintain continuity of care. Further, since new drug and alcohol clinics cannot receive a full license for at least six months, permitting clinics with a provisional license to participate in the MA Program will increase access by MA clients to these covered services.

### Need for Regulation

This amendment is needed to codify changes issued under a Notice of Rule Change published at 28 Pa.B. 1281 on March 7, 1998.

### Summary of Amendment

Section 1223.2, "Definitions" is revised by eliminating all references to the Governor's Council on Drug and Alcohol Abuse and replacing them with the "Department of Health". Also, the definition of "Drug/alcohol outpatient clinic provider" is revised to include those facilities which are provisionally licensed.

Section 1223.14, "Noncovered services", is revised by eliminating the reference to the Governor's Council on Drug and Alcohol Abuse and replacing it with the "Department of Health".

Section 1223.41, "Participation requirements", is revised to include those drug/alcohol outpatient clinics that are provisionally licensed. Also, the reference to the "Governor's Council on Drug and Alcohol Abuse and replacing them with the "Department of Health". All references to the Bureau of Provider Relations have been replaced with the "Office of Medical Assistance Programs".

### Fiscal Impact

#### **Public Sector**

To the extent that the Department has been providing these services under Notice of Rule Change published at 27 Pa.B. 1281 on March 7, 1998, we do not anticipate any future impact on the public sector if these amendments are adopted.

#### **Private Sector**

The Office of MA Programs does not anticipate any future fiscal impact on the private sector.

## **General Public**

The Office of MA Programs does not anticipate any future fiscal impact on the general public.

## **Paperwork Requirements**

There are no additional reports or new forms needed to comply with the regulation change.

## **Sunset Date**

The Department's Office of Medical Assistance Programs will evaluate the effectiveness of this regulation on an on-going basis. Necessary and appropriate changes will be made in response to letters, recommendations and comments from other offices, agencies and individuals and as a result of Departmental findings. No sunset date is required.

## **Public Comment**

Although this regulation was being adopted without prior notice, interested persons are invited to submit written comments within 30 days from the date of this publication. Comments should be sent to the Department of Public Welfare, Office of Medical Assistance Programs, c/o Deputy Secretary's Office, Attention: Regulations Coordinator, Room 515 Health and Welfare Building, Harrisburg, Pennsylvania 17120.

Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). If another alternative is required, please Thomas Vracarich at (717) 783-2209.

## **Regulatory Review Act**

Under Section 5(f) of the Regulatory Review Act, the Act of June 30, 1989, (P.L. 73, No. 19) (71 P.S. Sections 745.1 - 745.15), the agency submitted a copy of this regulation with proposed rulemaking omitted on **SEP 18 2001** to the Independent Regulatory Review Commission and to the Chairperson of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare. On the same date, the regulation was submitted to the Office of Attorney General for review and approval pursuant to the Commonwealth Attorneys Act. In accordance with Section 5(c) of the Act, this regulation was approved by the Committees on and was approved by the Commission on

The Department of Public Welfare finds:

- a. That notice of proposed rulemaking is omitted because this regulation relates to Commonwealth benefits in accordance with § 1204(1)(iv) of the Commonwealth Documents Law (45 P.S. § 1204(1)(iv) and 1 Pa. Code § 7.4(1)(iv)).
- b. That notice of proposed rulemaking is impracticable, unnecessary and contrary to the public interest under § 204(3) of the Commonwealth Documents Law (45 P.S. § 1204(3)) and 1 Pa. Code § 7.4(3).
- c. That the adoption of this regulation in the manner provided in this Order is necessary and appropriate for the administration and enforcement of the Public Welfare Code.

The Department of Public Welfare acting pursuant to the Public Welfare Code orders:

- a. The regulations of the Department of Public Welfare are amended to read asset forth in Annex A of this Order.
- b. The Secretary of the Department of Public Welfare shall submit this Order and Annex A hereto to the Attorney General and General Counsel for approval as to legality and form as required by law.
- c. The Secretary of the Department of Public Welfare shall duly certify this Order and Annex A hereto and deposit same in the Legislative Reference Bureau as required by law.
- d. This Order shall take effect immediately upon publication in the Pennsylvania Bulletin and shall apply retroactively to March 1, 1998.

ANNEX A  
PART III. MEDICAL ASSISTANCE MANUAL  
TITLE 55. PUBLIC WELFARE  
CHAPTER 1223  
OUTPATIENT DRUG AND ALCOHOL CLINIC SERVICES

\*\*\*\*\*

PROVIDER PARTICIPATION

1223.2. Definitions.

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*Drug/alcohol outpatient clinic provider* – A facility approved by the Department to participate in the Medical Assistance program and which is fully OR PROVISIONALLY licensed by the ~~Governor's Council on Drug and Alcohol Abuse~~ DEPARTMENT OF HEALTH to provide regular psychotherapy, client management, medical and psychological outpatient services for the diagnosis and treatment of drug and alcohol abuse and dependence to eligible Medical Assistance outpatient recipients who are not residents of a treatment institution or receiving similar treatment elsewhere. A drug/alcohol clinic may provide methadone maintenance if approved to do so by the ~~Governor's Council on Drug and Alcohol Abuse~~ DEPARTMENT OF HEALTH.

\*\*\*\*\*

*Drug/alcohol outpatient clinic psychotherapy personnel* – Licensed physicians, clinical social workers who have been graduated from a graduate school of social work accredited or approved by the Council on Social Work Education, licensed psychologists with psychotherapy training, and other individuals ~~determined~~ PERMITTED by the ~~Governor's Council on Drug and Alcohol Abuse~~ DEPARTMENT OF HEALTH.

\*\*\*\*\*

*Treatment institution* - A facility licensed, funded or controlled by the ~~Governor's Council on Drug and Alcohol Abuse~~ DEPARTMENT OF HEALTH or its agents that provides or makes provision for full or part-time treatment or rehabilitative services for drug and alcohol abuse and dependence of resident patients.

\*\*\*\*\*

1223.14. Noncovered services.

\*\*\*\*\*

(9) Drug/alcohol outpatient clinic services provided to patients receiving psychiatric partial hospitalization services under the Medical Assistance program or drug/alcohol partial hospitalization services under the ~~Governor's Council on Drug and Alcohol Abuse~~ DEPARTMENT OF HEALTH.

\* \* \* \* \*

1223.41. Participation requirements.

In addition to the participation requirements established in Chapter 1101 (relating to general provisions) drug/alcohol outpatient clinics shall meet the following participation requirements:

- (1) ~~Have current full licensure~~ **MUST BE FULLY OR PROVISIONALLY LICENSED/APPROVED** as an outpatient drug/alcohol facility by the ~~Governor's Council on Drug and Alcohol Abuse~~ **DEPARTMENT OF HEALTH**. To remain eligible for MA reimbursement, a facility must be fully OR PROVISIONALLY licensed/APPROVED at all times as an outpatient drug/alcohol clinic. A ~~conditional or provisional licensure or approval, or substandard compliance with full licensure, will render the facility ineligible to receive MA reimbursement for the conditional/provisional period.~~

\* \* \* \* \*

- (6) Notify immediately the Department's Office of Medical Assistance **PROGRAMS**, ~~Bureau of Provider Relations~~, in writing, of any facility name, address and service changes prior to the effective date of change. Failure to do so may result in payment interruptions or termination of the provider agreement.

- (7) Enter into a written provider agreement with the Department.

- (8) Forward copies of items required by subparagraphs (i)-(v) to the Office of Medical Assistance **PROGRAMS**, ~~Bureau of Provider Relations~~. It is the clinic director's responsibility to notify the ~~Bureau of Provider Relations~~ **OFFICE OF MEDICAL ASSISTANCE PROGRAMS**, in writing, of changes in the clinic's full compliance with licensure standards and changes in the following items required by subparagraphs (i)-(v) within 30 days following a change. If the clinic is relicensed by the ~~Governor's Council on Drug and Alcohol Abuse~~ **DEPARTMENT OF HEALTH**, the clinic director shall also forward a copy of the current license to the ~~Bureau of Provider Relations~~ **OFFICE OF MEDICAL ASSISTANCE PROGRAMS** within 30 days of relicensure:

- (i) A current ~~Governor's Council on Drug and Alcohol Abuse~~ **DEPARTMENT OF HEALTH** license showing effective dates of licensure and activities licensed.

\* \* \* \* \*

- (9) Have each branch location or satellite of an approved clinic also licensed by the ~~Governor's Council on Drug and Alcohol Abuse~~ **DEPARTMENT OF HEALTH** as an outpatient clinic and be approved by the Office of Medical Assistance **PROGRAMS** before reimbursement can be made for services rendered at the branch or satellite. Approval of the parent organization does not constitute approval for any branches or satellites of the same organization.



**TRANSMITTAL SHEET FOR RI  
REGULATOR**

Please return to:  
Independent Regulatory Review Commission  
14th Floor, Harristown II

I.D. NUMBER: 14-453  
SUBJECT: Outpatient Drug and Alcohol Clinic Services  
AGENCY: DEPARTMENT OF PUBLIC WELFARE

**TYPE OF REGULATION**

- Proposed Regulation
- Final Regulation
- X Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
  - a. With Revisions
  - b. Without Revisions

RECEIVED  
REGULATORY REVIEW  
COMMISSION  
JAN 11 2001

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
9/18/01	Lila Burrows	HOUSE COMMITTEE ON HEALTH & HUMAN SERVICES
9/18/01	Karen Slapper	
9/18/01	Kristi Kulis	SENATE COMMITTEE ON PUBLIC HEALTH & WELFARE
9/18/01	Carol Stuckey	
9/18/01	Elena Pagan	INDEPENDENT REGULATORY REVIEW COMMISSION
9-18-01	Mary Mummert	ATTORNEY GENERAL

~~LEGISLATIVE REFERENCE BUREAU~~

January 4, 2001