MEDICAID SERVICES MANUAL
TRANSMITTAL LETTER

May 30, 2023

TO: CUSTODIANS OF MEDICAID SERVICES MANUAL

FROM: CASEY ANGRES
CHIEF OF DIVISION COMPLIANCE

SUBJECT: MEDICAID SERVICES MANUAL CHANGES
CHAPTER 3800 – MEDICATION ASSISTED TREATMENT

BACKGROUND AND EXPLANATION

Revisions to Medicaid Services Manual (MSM) Chapter 3800 – Medication Assisted Treatment are being proposed to align with the Consolidated Appropriations Act of 2023 signed into law on December 29, 2022, which eliminated the "DATA-Waiver Program." The Act removes the federal requirement for practitioners to obtain a Data-Waiver (X-Waiver) to prescribe medications such as buprenorphine, a Schedule III controlled substance, for the treatment of opioid use disorder (OUD).

Throughout the chapter, grammar, punctuation, and capitalization changes were made, duplications removed, acronyms used and standardized, and language reworded for clarity. Renumbering and re-arranging of sections was necessary.

Entities Financially Affected: This proposed change affects all Medicaid-enrolled providers delivering medication assisted treatment. Those provider types (PTs) include, but are not limited to: Physician, M.D., Osteopath, D.O. (PT 20), Advance Practice Registered Nurse (PT 24), Nurse Midwife (PT 74), Physician's Assistant (PT 77), Certified Community Behavioral Health Center (CCBHC) (PT 17, Specialty 188), and Substance Abuse Agency Model (SAAM) (PT 17, Specialty 215).

Financial Impact on Local Government: Unknown at this time.

These changes are effective May 31, 2023.

MATERIAL TRANSMITTED	MATERIAL SUPERSEDED
MTL OL MSM Chapter 3800 – Medication Assisted Treatment	MTL 17/20; 12/21 MSM Chapter 3800 – Medication Assisted Treatment

Manual Section	Section Title	Background and Explanation of Policy Changes, Clarifications and Updates
3800	**Introduction**	Added clarifying language to the definition of medication-assisted treatment; updated language regarding Drug Enforcement Administration (DEA) license.
3801	**Authority**	Removed DATA 2000 related language and patient limit requirements.
3802	**Coverage and Limitations**	Removed DATA 2000 related language, patient limit requirements, and provider training requirements.
3804	**Phases of Care**	Updated Treatment Agreement language; removed language contradictory to the harm reduction model.

3800 INTRODUCTION

Medication-Assisted Treatment (MAT), otherwise known as medications for opioid use disorder, (MOUD), is the use of medications, in combination with counseling and behavioral therapies, to provide a "whole-patient" approach to the treatment of substance use disorders. Nevada Medicaid acknowledges that a combination of medication and therapy can successfully treat these disorders, and for some people struggling with addiction, MAT can help sustain recovery. National and state guidelines suggest MAT should be managed as an elective treatment and include signed, informed consent. This policy addresses the requirements for providers who are providing outpatient addiction treatment services for Opioid Use Disorder (OUD) in an office-based opioid treatment setting that is not a certified Opioid Treatment Program (OTP). The use of buprenorphine as a MAT medication is specifically outlined in this policy. For other medications that can be used to treat other diagnoses, review Medicaid Services Manual (MSM) Chapter 1200, Prescribed Drugs.

Buprenorphine is an opioid partial agonist/antagonist that is Food and Drug Administration (FDA) approved for the treatment of opioid dependence by physicians in an office-based setting. It is a Schedule III controlled substance and requires that physicians obtain a Drug Enforcement Administration (DEA) license ~~waiver ("X" waiver)~~ to prescribe it for office-based treatment of opioid dependence. The optimal length of treatment with buprenorphine has not been established, but research studies strongly support better outcomes with maintenance treatment. Many successful patients are treated with buprenorphine indefinitely to prevent relapse to opioid use.

Medication of choice is buprenorphine/naloxone for non-pregnant patients and buprenorphine single ingredient for pregnant patients (see MSM Chapter 1200, Prescribed Drugs). For the remainder of this chapter, both forms will be referred to as buprenorphine.

Nevada Medicaid pays for medically necessary MAT services for eligible Medicaid recipients with the diagnosis of OUD as defined by either the current edition of the Diagnostic and Statistical Manual of Mental Disorders or the current edition of the International Classification of Diseases, and who meet the predetermined criteria. Such services shall maintain a high standard of quality and shall be provided within the limitations and exclusions specified.

All providers participating in the Medicaid program must furnish services in accordance with the rules and regulations of the Medicaid program. See MSM Chapter 100, Medicaid Program.

3801 AUTHORITY

~~A. The Drug Addiction Treatment Act of 2000 (DATA 2000) permits qualified physicians to treat narcotic (opioid) dependence with schedule III-V narcotic-controlled substances that have been approved by the Food and Drug Administration (FDA).~~

~~B.~~A. The Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities (SUPPORT) Act promotes increased access to SUD/OUD treatment and recovery services by increasing the number of providers eligible to provide some level of SUD services. In response to the SUPPORT Act, Nevada has developed a comprehensive Medication Assisted Treatment strategy.

~~C.~~B. Medicaid is provided in accordance with the requirements of Title 42 Code of Federal Regulation (CFR) Part 440, Subpart A – Definitions, Subpart B and Sections 1929 (a), 1902 (e), 1905 (a), 1905 (p), 1915, 1920, and 1925 of the Act. Physician's services are mandated as a condition of participation in the Medicaid Program Nevada Revised Statute (NRS) 630A.220.

~~D.~~C. The State Legislature sets forth standards of practice for licensed professionals in the Nevada Revised Statutes (NRS) for the following Specialists:

1. Section 330 of the Public Health Service (PHS) Act;
2. NRS Chapter 629 - Healing Arts Generally;
3. NRS Chapter 632 - Nursing;
4. NRS Chapter 630 - Physicians and Physician Assistants and Practitioners of Respiratory Care General Provisions;
5. NRS Chapter 633 - Osteopathic Medicine;
6. Section 1861 of the Social Security Act;
7. Section 1905 of the Social Security Act;

3802 COVERAGE AND LIMITATIONS

Requirements for eligible providers to prescribe buprenorphine as treatment for opioid dependence:

~~A. Must have a DATA 2000 waiver from the Substance Abuse and Mental Health Services Administration (SAMHSA), exception is described in D.1.below.~~

A. Must have a DEA license to prescribe medication.

~~B. Effective April 26, 2021, the Office of the Secretary, Department of Health and Human Services, amended the DATA 2000 requirements to provide for an exemption allowing eligible providers, who are state licensed and registered by the DEA, to treat up to 30 patients with Opioid Use Disorder (OUD) using buprenorphine without having met certification requirements related to training, counseling, and other ancillary services (i.e., psychosocial services) under 21 U.S.C. 823(g)(2)(B)(i) (ii).~~

~~C.~~B. Eligible providers include the following:

1. Physician, M.D., Osteopath, D.O. (PT 20)
2. Advance Practice Registered Nurse (PT 24)
3. Physician's Assistant (PT 77)
4. Nurse Midwife (PT 74)

~~D. Patient limits:~~

~~1. 30 or Fewer Patients - During the first year prescribing buprenorphine, an eligible provider, meeting the requirements listed under A. or A.1, may maintain a patient load of up to 30 or fewer individuals receiving MAT at any point in time. After one year of prescribing to 30 or fewer patients, an eligible provider may apply for a waiver from SAMHSA to treat a maximum of 100 patients.~~

~~2. 100 or Fewer Patients - Allowed in the first year if the eligible provider holds additional credentialing~~

~~a. Nevada Board certified in addiction medicine~~

~~b. Nevada Board certified in addiction psychiatry~~

~~c. Provides MAT in a qualified practice setting~~

~~3. 275 or Fewer Patients – After one year of prescribing under a waiver to treat a maximum of 100 patients, an eligible provider may apply to SAMHSA for a waiver to treat up to 275 patients. Eligible providers must reapply for 275-patient waiver every three years.~~

~~E. Provides opioid related counseling during the visit and must be documented in clinical notes. Related counseling may not be required by eligible providers prescribing to 30 or fewer patients who are performing services under Department of Health and Human Services (DHHS) amended the DATA 2000 guidelines. According to DATA 2000, licensed physicians (MD/DO) are considered qualified to prescribe buprenorphine if at least one of the following criteria has been met:~~

~~1. Completion of not less than eight hours of authorized training on the treatment or management of opioid-dependent patients~~

~~2. Holds an addiction psychiatry subspecialty board certification from the American Board of Medical Specialties~~

~~3. Holds an addiction medicine certification from the American Society of Addiction Medicine (ASAM)~~

~~4. Holds an addiction medicine subspecialty board certification from the American Osteopathic Association (AOA)~~

~~5. Participation as an investigator in one or more clinical trials leading to the approval of a narcotic drug in Schedule III, IV, or V for maintenance or detoxification treatment~~

~~6. Training or other such experience as determined by the physician's state medical licensing board~~

~~7. Training or other such experience as determined by the U.S. Secretary of Health and Human Services.~~

~~8. Eligible providers who are state licensed and registered by the DEA to prescribe controlled substances can prescribe to 30 or fewer patients under the DHHS guidelines effective April 26, 2021.~~

~~G.~~ C. Providers ~~Physicians~~ must satisfy ~~all~~ the following criteria:

1. Follow all policies and guidelines related to their individual provider type per MSM Chapter 600, Physician Services.

2. Have the capacity to provide or to refer patients for necessary ancillary services, such as psychosocial therapy.

~~3. Agree to treat no more than 30 patients at any one time in an individual or group practice during the first year following certification; after treating patients for one year and sending in a second notice of intent and need to Substance Abuse and Mental Health Services Administration (SAMHSA), agree to treat no more than 100 patients at any given time.~~

~~4. Every year, per 42 CFR 8.635, eligible providers approved to treat up to 275 patients must submit information about their practice to SAMHSA for purposes of monitoring regulatory compliance. The goal of the reporting requirement is to ensure that practitioners are providing buprenorphine treatment in compliance with the final rule Medication Assisted Treatment for Opioid Use Disorders (81 FR 44711).~~

3804 PHASES OF CARE

Treatment with buprenorphine can be divided into the following stages: assessment (comprehensive medical evaluation, comprehensive psychosocial assessment), induction (transition from other opioid[s] to buprenorphine), stabilization, and maintenance.

A. Assessment Stage

1. Prior to commencing MAT, and in addition to ensuring that any patient has a comprehensive medical evaluation, the provider shall assess the patient and diagnose and document an opioid use disorder as defined by either the current edition of the Diagnostic and Statistical Manual of Mental Disorders, or the current edition of the International Classification of Diseases.

   The physician will make a determination on the individual's suitability for MAT. During this assessment process, the patient will receive a complete medical evaluation, education about the MAT process and a consent to treatment form. Providers shall arrange for services that are well-organized and accessible, minimizing the number of separate trips required for the patient to receive MAT program services.

2. Prior to commencing MAT, the provider shall either conduct an intake examination that includes any relevant physical and laboratory tests or refer the patient to a medical professional who can perform such an examination. Necessary laboratory tests may include, but are not limited to, urine drug screening, complete blood count, liver function tests, testing for tuberculosis, hepatitis, HIV, sexually transmitted diseases/infections, and pregnancy testing for women of childbearing age.

   The first clinical priority shall be given to identifying and making appropriate referral for any urgent or emergent medical or psychiatric problem(s), including drug-related impairment or overdose. The psychosocial assessment shall be completed before the third patient visit to the provider prescribing or dispensing MAT. The psychosocial assessment must include documentation supporting ASAM criteria with the dimensions and levels of care. The psychosocial assessment must be completed by:

   a. Psychiatrist;

   b. Physician certified by the American Board of Addiction Medicine;

   c. Advance Practice Registered Nurse with a specialty in psychiatry;

   d. Physician Assistant with a specialty in psychiatry;

   e. Licensed Clinical Social Worker;

f. Psychologist;

g. Licensed Marriage and Family Therapist;

h. Licensed Clinical Professional Counselor;

i. Licensed Clinical Alcohol and Drug Counselor;

j. Licensed Alcohol and Drug Counselor; or

k. Certified Alcohol and Drug Counselor.

If the prescribing provider (as listed in section 3802.B) is not certified in one of these disciplines, then the patient shall be referred for the psychosocial assessment during the initial visit. Following completion of the psychosocial assessment, the patient shall be offered or referred to behavioral health services based on the individual's needs. When referring a patient for behavioral health services, the individual providing these services must follow the guidelines listed in MSM Chapter 400, Mental Health and Alcohol/Substance Abuse Services. The psychosocial assessment must be completed before the third patient visit to the provider prescribing or dispensing MAT and shall be documented in the patient's record. Each provider shall maintain a referral and consultative relationship with a variety of providers who are proficient in providing primary and specialty medical services and consultation services for patients receiving MAT.

A provider may not deny or discontinue MAT based solely on a patient's decision not to follow a recommendation to seek counseling or other behavioral interventions unless the patient is otherwise non-compliant with program expectations. Harm reduction is a set of practical strategies and ideas aimed at reducing the public health risks associated with drug use. Harm reduction calls for the non-judgmental, non-coercive provision of services and resources to people who use drugs, and the communities in which they live, in order to assist them in reducing harm. One of the most common forms of harm reduction is MAT for people who are addicted to opioids. Providers will consider how to incorporate harm reduction strategies into the patient's treatment and make recommendations to the prescribing provider. Refusal of services by patient must be documented in treatment plan and progress notes.

3. Prior to treating a patient with buprenorphine, a provider shall:

a. Obtain voluntary, written, informed consent to treatment from each patient and confirm the patient has no specific contraindication for buprenorphine treatment.

b. Obtain a treatment agreement outlining the responsibilities and expectations of the prescribing provider and the patient.

c. Treatment Agreement ~~shall include~~ must document patient decisions for the following:

1. Patient agrees to refrain from opioid use prior to the scheduled date of induction for the indicated timeframe deemed appropriate by the clinician based on acuity of patient.

2. Patient agrees to participate in all components of MAT program.

3. Patient will attend all appointments as scheduled.

4. Patient agrees to participate in therapy sessions weekly or as clinically appropriate.

5. Patient agrees to complete random and/or scheduled lab testing as clinically appropriate.

6. Patient agrees to comply with all medications as prescribed.

~~7. Patient agrees to avoid use of alcohol or other drugs while enrolled in the MAT program.~~

d. Treatment Agreement must document patient receiving the following provider education:

1. MAT provider will educate the patient of risks of use of alcohol and other drugs while receiving buprenorphine treatment.

~~8.~~2. MAT provider shall provide 24-hour emergency hotline to patient as additional support after normal business hours.

~~9.~~3. MAT provider shall offer patient with referrals to community resources as needed.

~~10.~~4. MAT provider will educate the patient of buprenorphine for use of opioid treatment.

~~11.~~5. MAT provider will educate the patient of withdrawal symptoms related the opioid use.

~~d.~~e. Make reasonable efforts to obtain releases of information for any health care providers or others important for the coordination of care to the extent

allowed by Health Insurance Portability and Accountability Act (HIPAA) and 42 CFR, Part 2.

~~e.~~f. Ensure the current medical evaluation (with lab testing results) is included in the patient's medical record prior to or shortly after the patient is started on the medication.

B. Induction Phase

The Induction Phase is the medically monitored startup of buprenorphine treatment performed in a qualified physician's office using approved buprenorphine products. The medication is administered when a person with an opioid dependency has abstained from using opioids for 12 to 24 hours and is in the early stages of opioid withdrawal. It is important to note that buprenorphine can bring on acute withdrawal for patients who are not in the early stages of withdrawal and who have other opioids in their bloodstream.

Following initiation, buprenorphine dose will be titrated to alleviate symptoms. To be effective, buprenorphine dose must be sufficient to enable patients to discontinue illicit opioid use. The provider will make the clinical decision as to whether the patient needs to be seen for two or three consecutive days as part of the induction process. At the onset of induction phase, patients must be seen frequently until they are determined to be stable.

A MAT provider is responsible for evaluating and monitoring the patient during the induction phase. The Clinical Opiate Withdrawal Scale or other approved tool shall be completed during each visit or until symptoms are noted as absent. Stabilization Phase

The Stabilization Phase begins after a patient has discontinued or greatly reduced their misuse of the problem drug, no longer has cravings, and experiences few, if any, side effects. The buprenorphine dose may need to be adjusted during this phase. Because of the long-acting agent of buprenorphine, once patients have been stabilized, they can sometimes switch to alternate-day dosing instead of dosing every day.

The stabilization period lasts several weeks following induction. Patients will receive a limited supply of medication during stabilization and return for regular follow-up which is defined as clinically appropriate for the first month.

The MAT team shall conduct therapy sessions (individual or group) with the patient as clinically appropriate. The MAT team shall refer the patient to individual or group therapy if not offered by the MAT provider.

C. Maintenance Phase

The Maintenance Phase occurs when a patient is doing well on a steady dose of buprenorphine. The length of time of the maintenance phase is tailored to each patient and