



*Colorado Medicaid Behavioral Health Network
For a diverse, competent, and sustainable
Medicaid mental healthcare workforce. combinebh.org*

Comments on proposed BHA rule chapters 1, 2, 5-16

February 28, 2023

Dear Members of the Colorado Board of Human Services,

COMBINE represents independently contracted Medicaid mental health providers (the “IPN” or Independent Provider Network). Our approximately 900 solo and small clinics provide outpatient care for the statewide Medicaid program.

COMBINE has attempted for more than a year to clarify and understand the “approval” and “licensure” of small clinics and solo providers under the evolving BHE concept. As explained below the status of solo and small clinics is still ambiguous. COMBINE is also very concerned about the proposal to require that 50% of the counseling staff is fully licensed and not candidates or interns, as this will lead to an exodus of small providers, impacting access to care.

We are requesting that the Board delay implementation of all new BHA rules until April 1, 2024, with board approval January 2024.

We pray the Board will understand the dilemma. The IPN currently provides a majority of the outpatient care in the Medicaid system (according to HCPF Rate Review Report Sept 2022).

The strength of the IPN is in its diversity and size. Thousands of solo and small clinics are supporting the Medicaid population. These solo and small clinics have virtually no experience with the complications described in this document for licensure. Our small providers will balk at the license fee and administrative expense of preparing policies and procedures and the number of Medicaid providers will drop.



Ambiguity about “approval” and “licensure.”

- 1) There are at least three descriptions of safety net providers: Safety Net Provider, Essential Behavioral Health Safety Net Provider, and Comprehensive Safety Net Provider.
- 2) The rules state that IPN providers must be approved by the BHA as a Safety Net Provider. We don’t currently understand the approval process and it’s not described in these rules, as far as we can read.
- 3) There will be an option to be approved as an “essential bh safety net provider,” although it’s “not required.” We don’t understand this approval process.
 - a) (13) "Essential behavioral health safety net provider" means a licensed behavioral health entity or behavioral health provider approved by the behavioral health administration to provide at least one of the behavioral health safety net services described in subsection (11) of this section.

Subsection (11) includes IPN work : (b) Mental health and substance use outpatient services;
- 4) “Licensure,” rather than “approval,” is required if an organization is a BHE. The “10 licensed provider” qualifier has been added.
- 5) However, the definition of BHE is otherwise unchanged, and is:

1.2.14 "BEHAVIORAL HEALTH ENTITY" HAS THE SAME MEANING AS PROVIDED IN SECTION 27-50-101 (4), C.R.S.

27-50-101 (4) "Behavioral health entity" means a facility or provider organization engaged in providing community-based health services, which may include services for a behavioral health disorder, but does not include residential child care facilities, as defined in section 26-6-903(29), detention and commitment facilities operated by the division of youth services within the department of human services, or services provided by a licensed or certified mental health-care provider under the provider's individual professional practice act on the provider's own premises.



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- 6) Very few providers own their premises and “or lease” is expected here. Small clinics will not be exempted from the BHE definition by this definition.
- 7) So a great many small clinics, which previously did not need to be licensed by OBH or CDPHE will need licenses, which are expensive and time consuming to obtain. Many small clinics will choose to not offer Medicaid services because of the licensing fees and administrative burden of preparing policies and procedures and other items.

Text:

Document 9 page 134 CDHS March 3 agenda <https://cdhs.colorado.gov/sbhs>

https://drive.google.com/file/d/1bxR-l3Hx6_wpDcCLka1K2EwM-_g1JU6Z/view?usp=share_link

“IPN providers, if accepting public funds, including Medicaid, **must be approved by the BHA as a Safety Net Provider**. The definition of safety net provider has been added to provide clarification here. Beyond this approval, IPN providers will have the **option to be approved as an essential behavioral health safety net provider**, however this is not a requirement.

Safety net approval is also separate and distinct from BHE licensure. A provider must be licensed as a BHE if they meet the definition of a BHE. This definition has been further clarified by defining the term “provider organization” which is defined to



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mean A CORPORATION,
PARTNERSHIP, LIMITED
LIABILITY COMPANY, BUSINESS
TRUST, ASSOCIATION, OR
ORGANIZED GROUP OF
PERSONS, WHETHER
INCORPORATED OR NOT,
WHICH IS IN THE BUSINESS OF
BEHAVIORAL HEALTH CARE
DELIVERY OR MANAGEMENT
AND THAT INCLUDES TEN (10)
OR MORE LICENSED OR
CERTIFIED MENTAL
HEALTH-CARE PROVIDERS
UNDER THE PROVIDERS'
PROFESSIONAL PRACTICE
ACTS. THE EXCEPTION TO THE
10 PROVIDER REQUIREMENT IS
ANY SIZE ORGANIZATION
PROVIDING TWENTY-FOUR (24)
HOUR OR OVERNIGHT
SERVICES.

Less than 50% may have candidate licensure or be university interns.

Imposition of this requirement will dramatically decrease the ability of small Medicaid clinics to operate. Clinics that are providing outpatient care are not sufficiently reimbursed to afford the employment costs of full licensure workers.

For example, Boulder Emotional Wellness has provided a learning environment for university interns and pre-licensure externs for 12 years. The clinic has 5 full LPC clinicians and 26 university interns and pre-licensure externs. Adding 22 licensed counselors to meet the 50%



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requirement is impossible. BEW would have to reduce its counseling staff from 31 to 10 (5 LPCs and 5 pre-licensure workers).

COMBINE is glad for the effort put forth to assure a safe and stable behavioral health safety net, and supports regulation. We believe a pause at this time for further stakeholding and comments about the rules and how they will impact service delivery is appropriate.

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