

**NUMBER**

#20-76-01

**DATE**

April 29, 2020

**OF INTEREST TO**

County Directors

Social Services Supervisors and  
Staff

**ACTION/DUE DATE**

The action is retroactive to discharge delays occurring on or after the governor's declaration of the Peacetime State of Emergency, Executive Order 20-01, on March 13, 2020, and portions remains in effect until the end of the peacetime state of emergency.

All other provisions remain in effect until the expiration date.

**EXPIRATION DATE**

April 29, 2021

## County Portion of Cost of Care at Anoka-Metro Regional Treatment Center (AMRTC) and Community Behavioral Health Hospitals (CBHHs)

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### TOPIC

County cost of care for adult mental health services provided at the Direct Care and Treatment (DCT) operated Anoka-Metro Regional Treatment Center (AMRTC) and the Community Behavioral Health Hospitals (CBHH).

### PURPOSE

This bulletin provides guidance related to time-limited modification of the administrative review criteria relating to a county's liability for the cost of care at Anoka-Metro Regional Treatment Center (AMRTC) & Community Behavioral Health Hospitals (CBHHs) when patient is found to no longer meet criteria to remain at the hospital, but discharge is delayed because of diminished community capacity or program restrictions resulting from COVID-19.

### CONTACT

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Direct Care and Treatment  
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### SIGNED



MARSHALL E. SMITH, MHA, LNHA, FACHE  
Health Systems Chief Executive Officer, Direct Care and Treatment

### TERMINOLOGY NOTICE

The terminology used to describe people we serve has changed over time. The Minnesota Department of Human Services (DHS) supports the use of "People First" language.

# I Background

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This bulletin is intended to provide information on the billing practices for the adult mental health inpatient hospital services provided at the Direct Care & Treatment AMRTC and the Community Behavioral Health Hospitals as directed by Minnesota Statutes, section 246.54, subdivision 1a and 1b, and modified by authority granted under Executive Order 20-12.

## A. Subdivision 1. Generally.

Minnesota Statute Section 246.54 requires a client's county shall pay to the state of Minnesota a portion of the cost of care provided in a state facility for a client legally settled in that county. A county's payment shall be made from the county's own sources of revenue and payment shall equal a percentage of the cost of care, as determined by the commissioner, for each day, or the portion thereof, that the client spends at a state facility.

### 1. Subdivision 1a. Anoka-Metro Regional Treatment Center.

- a) A county's payment of the cost of care provided at Anoka-Metro Regional Treatment Center shall be according to the following schedule:
  - 1) Zero percent for the first 30 days;
  - 2) 20 percent for days 31 and over if the stay is determined to be clinically appropriate for the client;
  - 3) 100 percent for each day during the stay, including the day of admission, when the facility determines that it is clinically appropriate for the client to be discharged.
- b) If payments received by the state under Minnesota Statutes, sections 246.50 to 246.53 exceeds 80 percent of the cost of care for days over 31 for clients who meet the criteria in paragraph (a), clause (2), the county shall be responsible for paying the state only the remaining amount. The county shall not be entitled to reimbursement from the client, the client's estate, or from the client's relatives, except as provided in Minnesota Statutes, section 246.53.

### 2. Subdivision 1b. Community Behavioral Health Hospitals.

A county's payment of the cost of care provided at the state-operated community based behavioral health hospitals shall be according to the following schedule:

- 1) 100 percent of each day during the stay, including the day of admission, when the facility determines that it is clinically appropriate for the client to be discharged; and
- 2) The county shall not be entitled to reimbursement from the client, the client's estate, or from the client's relatives, except as provided in Minnesota Statutes, section 246.53.

## II. Length of Stay Determination

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In accordance with the law, the following methods will be used to determine length of stay:

- DATE of admission to the program after release of any hold order will be counted as day one for the county cost of care determination.
- DISCHARGE from the inpatient episode will end the length of stay calculation for the episode unless a client is re-admitted to the program within 72 hours. If the client is re-admitted within 72 hours from discharge (provisional or full), the length of stay will continue from the previous episode.

## III. DCT – Hospital Level Medical Necessity Criteria – Determination Process

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Minnesota Statutes, section 246.54, subdivision 1(b) requires the treatment facility to determine the clinical appropriateness of discharge as follows:

**Step 1** – Utilization management reviewer identifies a client treatment episode that may no longer meet hospital level medical necessity criteria using LOCUS (Levels of Care Utilization System).

**Step 2** – Utilization management reviewer reviews the client case with attending clinician to determine if clinical data supports hospital level medical necessity criteria, or “does not meet criteria” (DNMC).

**Step 3** – Utilization management supervisor reviews case with the utilization management reviewer to assure appropriate justification for DNMC and writes DNMC letter.

**Step 4** – Program Medical Director reviews the case with the utilization management supervisor and if in agreement, signs the DNMC letter.

**Step 5** – DNMC letter is sent to the client (or designee) and to the county case manager.

## IV. Process for Clients Appealing Medical Necessity Determination

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Clients have the right to appeal this determination. Clients may file an appeal with the Appeals Unit of the Minnesota Department of Human Services. The address is below. Clients must submit their appeal within 30 days of when they receive notice. If the client can show good cause for failing to appeal within 30 days, the client might be able to appeal within 60 days. The human services judge decides if the client has good cause.

Representation: if the client requests and appeal, they may represent themselves or ask a lawyer, friend or others to help them.

Appeals Unit  
Minnesota Department of Human Services  
PO Box 64941  
St. Paul, MN 55164-0941  
(651) 431-3600

## V. County Administrative Review Process

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Changes made by the 2019 legislative session provided for an administrative review process when the determination of the county cost of care liability as it relates to individuals the treatment facility has determined to be clinically appropriateness of discharge but a delay in discharge has occurred due to the treatment facility. The county of financial responsibility may submit a written request for administrative review by the commissioner of the county's payment of the cost of care when a delay in discharge of a client from a regional treatment center, state-operated community-based behavioral health hospital, or other state-operated facility results for the following actions by the facility:

- 1) The facility did not provide notice to the county that the facility has determined that it is clinically appropriate for a client to be discharged;
- 2) The notice to the county that the facility has determined that it is clinically appropriate for a client to be discharged was communicated on a holiday or weekend;
- 3) The required documentation or procedures for discharge were not completed in order for the discharge to occur in a timely manner; or
- 4) The facility disagrees with the county's discharge plan.
- 5) The county of financial responsibility cannot appeal the determination that it is clinically appropriate for a client to be discharged from a state-operated facility.

Because community capacity has diminished as a result of COVID-19 and will likely cause delay in discharge for patients no longer meeting medical criteria, the Commissioner, under authority granted by Executive Order 2012, has modified Minn. Stat. § 246.54, subd. 3(a) to allow for an added administrative review criteria.

Until the end of the peacetime state of emergency, counties may seek administrative review when a delay in discharge is related to COVID-19 and receive partial relief of financial responsibility. This criteria will not apply to individuals who were DNMC before the Peacetime State of Emergency – or if the delay cannot be related to COVID-19.

If a discharge delay is determined to be a result of COVID-19, the county shall remain responsible for 100 percent of the cost of care for days one through ten of a client's DNMC days. When such clients reach day 11 of their DNMC stay, the cost of care charged to the county would return to the rate charged for a client whose continued stay is determined to be clinically appropriate.

The commissioner's determination under this subdivision is final and not subject to appeal.

The process and form to be used to request an administrative review of the county cost of care liability can be found in Attachment A of this bulletin.

## **VI. Action to be taken on county non-payment of county portion of cost of care**

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It is the responsibility of the county to make payment to the state within a reasonable period of time. Claims not paid in 90 days are considered to be outside of a reasonable period of time. When payment is not received within 90 days, the Commissioner of Human Services may assess financial penalties against the county in accordance with Minnesota Statutes, section 256.01, subdivision 2 as follows:

### **A. Subdivision 2. Specific Powers.**

Subject to the provisions of Minnesota Statutes, section 241.021, subdivision 2, the Commissioner of Human Services shall carry out the specific duties in paragraphs (a) through (bb):

5) delay or deny payment of all part of the state and federal share of benefits and administrative reimbursement according to the procedures set forth in Minnesota Statutes, section 256.017;

### **B. Process for Non-Paid Claims.**

Upon notification to the county from the Direct Care & Treatment patient accounting office of non-paid claims exceeding 90 days, credit balances will be established in the Departments of Medicaid Management Information Systems (MMIS) for the full amount of the outstanding debt. Once established, future MMIS payments will be reduced, in whole or in part, until the value of the credit balance/outstanding debt is realized. The payment reductions will be reflected in each county's Remittance Advices (835's).

## **Americans with Disabilities Act (ADA) Advisory**

This information is available in accessible formats for people with disabilities by calling (651) 431 - 3676 (voice) or toll free at (800) 627-3529 or by using your preferred relay service. For other information on disability rights and protections, contact the agency's ADA coordinator.

# DCT Administrative Review Process

## What is an Administrative Review?

Consistent with Minnesota Statutes, section 246.54, subd. 3, a county of financial responsibility may submit a written request for an Administrative Review by the Commissioner of the Department of Human Services in cases where there is a disagreement regarding the county's liability for the cost of care when a delay in discharge of a client from a regional treatment center or state-operated community-based behavioral health hospital results from the following actions:

1. the facility did not provide notice to the county that the facility has determined that it is clinically appropriate for a client to be discharged;
2. the notice to the county that the facility has determined that it is clinically appropriate for a client to be discharged was communicated on a holiday or weekend;
3. the required documentation or procedures for discharge were not completed in order for the discharge to occur in a timely manner; or
4. the facility disagrees with the county's discharge plan.

## What criteria have been modified in response to COVID-19?

Under the authority granted by Executive Order 201-12, there is time-limited authority for an additional administrative review criteria relating to a county's liability for the cost of care when patient is found to no longer meet criteria to remain at the program, but discharge is delayed because of diminished community capacity or program restrictions resulting from COVID-19.

## What relief is a county given related to COVID-19?

Because community capacity has diminished as a result of COVID-19 and may cause delays in discharge for patients no longer meeting medical criteria, counties may seek administrative review when a delay in discharge is related to COVID-19.

The county will remain responsible for 100 percent of the cost of care for Day one (1) through Day ten (10) of a client's DNMC days. When such clients reach day eleven (11) of their DNMC stay, the cost of care charged to the county returns to the rate charged for a client whose continued stay is determined to be clinically appropriate.

## When do COVID-19 modifications to the Administrative Review go into effect?

Modifications relating to COVID-19 are retroactive to discharge delays occurring on or after the Governor's declaration of the Peacetime State of Emergency, Executive Order 20-01, on March 13, 2020.

## When do COVID-19 modifications to the Administrative Review expire?

Modifications relating to COVID-19 remain in effect until the end of the Peacetime State of Emergency.

## **Are there individuals who would not be eligible for Administrative Review under the COVID-19 modifications?**

Waiver would not apply to individuals who were DNMC before the Peacetime State of Emergency – or if the delay was not caused by COVID-19.

## **How can a county demonstrate that the delay in discharge is related to COVID-19?**

Examples of discharge delay relating to COVID-19 include, but are not limited to, the following:

- Client requires placement in a facility, which is not admitting clients because of COVID-19; or
- Receiving facility is requiring COVID-19 testing prior to admission or has established other criteria related to COVID-19 that have resulted in a delayed discharge; or
- Lack of community support services; or
- Patient requires face-to-face services that are not available due to COVID-19.

## **How do I request an Administrative Review?**

Under the circumstances outlined above, the county of financial responsibility may request an Administrative Review by completing the attached form. These forms should be submitted via email to: [dct.administrative.review@state.mn.us](mailto:dct.administrative.review@state.mn.us).

Once received, the request for Administrative Review will be routed to the facility's social services leadership and the Mental Health and Substance Abuse Treatment Services (MHSATS) Executive Director to conduct an assessment and make a recommendation to the Commissioner.

Assessment of the Administrative Review will include analysis of the medical record, as well as dialogue with the county of financial responsibility regarding the information provided and assertions made and will be an iterative process.

Upon completion of the assessment, the Administrative Review will be submitted to the Commissioner. The Commissioner, whose decision is binding, will make the final determination regarding financial responsibility.

Upon final determination, the DCT Finance Department will notify the county of financial responsibility with the outcome and adjust any approvals, as applicable.



## Direct Care and Treatment Administrative Review Request

Date of Request: \_\_\_\_\_

Medical Record Number: \_\_\_\_\_

Episode Number: \_\_\_\_\_

Name of DCT Facility: \_\_\_\_\_

DNMC Date: \_\_\_\_\_

Discharge Date: \_\_\_\_\_

County of Financial Responsibility: \_\_\_\_\_

Contact: \_\_\_\_\_

Title: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Email: \_\_\_\_\_

### Reason for Administrative Review (check all that apply)

- Facility did not provide notice to the county that the facility has determined that it is clinically appropriate for a client to be discharged
- Notice to the county that the facility has determined that it is clinically appropriate for a client to be discharged was communicated on a holiday or weekend
- Required documentation or procedures for discharge were not completed in order for the discharge to occur in a timely manner; or
- Facility disagrees with the county's discharge plan.
- Discharge is delayed as a result of COVID-19.

**Additional Information:** (Provide any additional information in considering this Administrative Review)

A large, empty rectangular box with a thin black border, intended for providing additional information.

Please submit completed form to: [dct.administrative.review@state.mn.us](mailto:dct.administrative.review@state.mn.us).  
Supporting documents may also be attached to this email.

**FOR INTERNAL USE ONLY**

Date Received: \_\_\_\_\_

Reviewer: \_\_\_\_\_

Assessment Narrative:

A large, empty rectangular box intended for writing the assessment narrative.

Recommendation:

[Empty box for recommendation text]

\_\_\_\_\_  
MHSATS Executive Director

\_\_\_\_\_  
Date

Please Route to the DHS Commissioner.

**DHS Commissioner Review**

- I have reviewed this Request for Administrative Review and, based on the established criteria, concur with the above recommendations.
- I have reviewed this Request for Administrative Review and, based on the established criteria, disagree with the above recommendations. I propose the following:

\_\_\_\_\_   
 DHS Commissioner

\_\_\_\_\_   
 Date

Please Route to the DCT Finance Department.

**DCT Finance Department**

DCT Finance Contact: \_\_\_\_\_

Date County Notified: \_\_\_\_\_

Notes: