

## REIMBURSEMENT POLICY

### Court Ordered Mental Health Treatment and Evaluation

Active

---

**Policy Number:** Behavioral Health – 014  
**Policy Title:** Court Ordered Mental Health Treatment and Evaluation  
**Section:** Behavioral Health  
**Effective Date:** 01/18/2017

#### Description

This policy addresses coverage and coding of behavioral health services that are rendered as a result of a court order.

#### Definitions

When a court order for treatment is based on evaluation and recommendation by a physician or licensed Ph.D. level psychologist, Blue Cross will consider the order medically necessary.

#### Policy Statement

Blue Cross will provide coverage for court ordered services according to the patient's contract benefits.

All fully insured health plans must pay for court ordered mental health services under the following circumstances:

- the services are otherwise covered by the plan; and
- the court's order is based on a behavioral care evaluation performed by a licensed psychiatrist or a doctoral level licensed psychologist, which includes a diagnosis and
- an individual treatment plan for care in the most appropriate, least restrictive
- environment; and
- the care is provided by a participating provider of the health plan; or by
- another provider if appropriate care is not available through the plan, or if another
- provider is required by state law or rule.

This court-ordered coverage must not be subject to a separate medical necessity determination by the health plan under its utilization review procedures.

#### Guidelines for Court Ordered Evaluations

An appropriately licensed physician or Ph.D. level psychologist must perform the assessment.

The following services are eligible for Blue Cross coverage (subject to the terms of the subscriber's contract):

- Mental health evaluations/diagnostic assessments and related testing.
- Chemical health evaluations.

- 72 hour holds under the Mental Health Act, Minn. Stat. 253B.05.
- 24-hour mental health observation beds.
- Mental health evaluations to determine the need for civil commitment for treatment

### **Court Ordered Evaluation Claim Submission Guideline**

Blue Cross recognizes that certain court ordered evaluations may be lengthy and wants to ensure equitable reimbursement to providers for these types of evaluations, but the claim submission must be HIPAA compliant including the restriction of units based on the code narrative.

Only one unit of service may be submitted regardless of the time spent with the patient. To alert Blue Cross that this is a court ordered evaluation, an H9 modifier must be appended to 90791 or 90792. Preauthorization is not required; however, the court order for the evaluation must be on file in the patient's medical record.

- HCPCS code: 90791 or 90792.
- HCPCS modifier: H9 (court ordered).
- Unit: one unit (regardless of time spent).
- Diagnosis code: appropriate ICD-10-CM mental or chemical health diagnosis Coverage of follow-up care will depend upon individual subscriber benefits.

### **Mental Health Evaluation components:**

- The assessment or mental status exam is to identify appropriate subjective and objective information pertinent to the patient's presenting complaint. The presenting symptoms are to be clearly identified with the onset, duration and intensity documented.
- The assessment contains the patient's presenting problem(s) as well as relevant psychological or social conditions affecting the patient's medical or psychiatric status. For children and adolescents (18 and under), past medical history and psychiatric history includes prenatal and perinatal events and a complete developmental history (physical, psychological, social, intellectual, and academic).
- The mental status exam is to document the patient's affect, speech, mood, thought content, judgment, insight, attention or concentration, memory, impulse control, suicidal ideation and homicidal ideation.
- For patients 10 years and older, there is to be an appropriate notation in the assessment concerning past and present use of tobacco, alcohol, as well as illicit, prescribed and over-the-counter substances.
- Past medical/behavioral history is easily identifiable in the record and includes, if applicable; previous treatment dates, former provider information, therapeutic interventions and responses, source of clinical data, relevant family information, results of lab test and consultation reports.

- To determine if a comprehensive substance use disorder (SUD) evaluation is needed, a SUD screening is to be incorporated into the assessment of all new patients.

The MH evaluation components of the following assessments are eligible for Blue Cross coverage (subject to the terms of the subscriber's contract):

- Civil competency evaluations (evaluation to guide court's in determining whether a person is mentally competent to manage his/her own affairs).
- Competency and diminished capacity evaluations (evaluation to guide court's in determining whether to award guardianship of an adult).
- Domestic violence assessments.
- Pre-placement assessments (for evaluation prior to county placement in various settings, which may include foster care, shelter care, residential treatment, corrections, etc.).
- Sex offender evaluations (does not cover the criminal history review or risk assessment portions as identified in MN Rule 2955.0100, Subp.7. A, B, C, D, G and J).
  - Sex offender evaluations (SOE) performed for forensic (court ordered) purposes are not reimbursed and will be denied as subscriber liability.
  - SOE performed as part of treatment is eligible for separate reimbursement. Submit 90899 (unlisted psychiatric service or procedure) with medical records. Coverage and/or liability will be determined based on review and purpose of the evaluation.

### **Forensic Evaluations**

Blue Cross does not cover forensic evaluations conducted to answer specific legal questions.

In contrast to a mental health evaluation, a forensic evaluation is conducted primarily to assist the legal system in making decisions regarding family, civil or criminal matters. In these instances, the summary and conclusions relate directly to the legal issues, and the relationship between psychological factors and the legal issues are described. (For more information go to [www.psychologyinfo.com/forensic/index.html](http://www.psychologyinfo.com/forensic/index.html), a link provided through the American Psychological Association website.)

It is Blue Cross' expectation that a mental health (MH) professional conducting one of the following assessments will use his/her clinical judgment. In the event that the MH professional determines that the subscriber requires a MH evaluation as a component of one of these evaluations for the purpose of identifying and determining treatment needs, Blue Cross will consider the component eligible for coverage, subject to the terms of the subscriber's contract.

### **Court Ordered Evaluations – Non-covered Services**

The following are examples of forensic evaluations that are not covered by Blue Cross:

- Adoption home studies (evaluation to guide court's in decision whether to allow adoption of children by an individual or couple).

- Adoption readiness evaluations (evaluation to guide court's in decisions regarding adoption placement planning).
- Adult pre-sentencing evaluations (evaluation to guide court's in determining sentencing of adults in criminal matters).
- Assessment of emotional factors in sexual harassment and discrimination (evaluation to guide court's decision regarding sexual harassment and/or discrimination).
- Child custody evaluations (evaluations to guide the court's decision in determining who should have custody of minor children).
- Criminal competency evaluations (evaluation to determine whether a person is competent to stand trial).
- Education classes for driving under influence (DUI) offenses (education classes/program regarding driving under the influence. An SUD diagnosis is not required for attendance.).
- Evaluating the credibility of child witnesses (evaluation to guide court's in determining credibility of a child witness).
- Evaluations of juveniles accused of criminal acts (evaluation to guide court's in determining whether a minor should be tried as an adult).
- Evaluations to assess termination of parental rights (evaluation to guide court's decision regarding termination of parental rights).
- Juvenile pre-sentencing evaluations (evaluation to guide court's decision related to sentencing in criminal matters).
- Juvenile probation evaluations (evaluation to guide court's decision related to probation terms in criminal matters).
- Mediation of parental conflicts about children (service to provide assistance to parents engaged in a legal dispute over child custody and/or visitation).
- Parenting assessments/parental competency evaluation (evaluation to guide the court's decisions about parental rights, custody and placements).
- Personal injury evaluations (evaluation to guide court's decision in awarding damages related to personal injury).
- Visitation risk assessments (evaluations to guide the court's decision in determining child visitation rights; may include grandparent visitation.).
- Workers' compensation evaluations (evaluation to determine extent of damage related to a workers' compensation claim).

### Documentation Submission

Providers should maintain a copy of the court order in the patient's chart and fax in the evaluation and court order to the plan as requested.

Documentation must identify and describe the procedures performed, including total time of the service and participants for family or group services. If a denial is appealed, this documentation must be submitted with the appeal.

### Coverage

Blue Cross coverage for court ordered mental health services is compliant with the following Minnesota statute (62Q.535):

#### **62Q.535 COVERAGE FOR COURT-ORDERED MENTAL HEALTH SERVICES.**

Subdivision 1. **Mental health services.** For purposes of this section, mental health services mean all covered services that are intended to treat or ameliorate an emotional, behavioral, or psychiatric condition and that are covered by the policy, contract, or certificate of coverage of the enrollee's health plan company or by law.

Subd. 2. **Coverage required.**

- (a) All health plan companies that provide coverage for mental health services must cover or provide mental health services ordered by a court of competent jurisdiction under a court order that is issued on the basis of a behavioral care evaluation performed by a licensed psychiatrist or a doctoral level licensed psychologist, which includes a diagnosis and an individual treatment plan for care in the most appropriate, least restrictive environment. The health plan must be given a copy of the court order and the behavioral care evaluation. The health plan shall be financially liable for the evaluation if performed by a participating provider of the health plan company and shall be financially liable for the care included in the court-ordered individual treatment plan if the care is covered by the health plan and ordered to be provided by a participating provider or another provider as required by rule or law. This court-ordered coverage must not be subject to a separate medical necessity determination by a health plan under its utilization procedures.
- (b) A party or interested person, including a health plan or its designee, may make a motion for modification of the court-ordered plan of care pursuant to the applicable rules of procedure for modification of the court's order. The motion may include a request for a new behavioral care evaluation according to this section.

#### **Ongoing coverage for inpatient hospital stays**

The health plan's liability for an ongoing mental health inpatient hospital stay at a regional treatment center (RTC) shall end when the medical director of the center or facility, or his or her designee, no longer certifies that the Enrollee is in need of continued treatment at a hospital level of care.

**The following applies to all claim submissions.**

All coding and reimbursement is subject to all terms of the Provider Service Agreement and subject to changes, updates, or other requirements of coding rules and guidelines. All codes are subject to federal HIPAA rules, and in the case of medical code sets (HCPCS, CPT, ICD), only codes valid for the date of service may be submitted or accepted. Reimbursement for all Health Services is subject to current Blue Cross Medical Policy criteria, policies found in the Provider Policy and Procedure Manual sections, Reimbursement Policies and all other provisions of the Provider Service Agreement (Agreement).

In the event that any new codes are developed during the course of Provider's Agreement, such new codes will be paid according to the standard or applicable Blue Cross fee schedule until such time as a new agreement is reached and supersedes the Provider's current Agreement.

All payment for codes based on Relative Value Units (RVU) will include a site of service differential and will be calculated using the appropriate facility or non-facility components, based on the site of service identified, as submitted by Provider.

**Coding**

The following codes are included below for informational purposes only, and are subject to change without notice. Inclusion or exclusion of a code does not constitute or imply subscriber coverage or provider reimbursement.

**CPT/HCPCS Modifier:** H9

**ICD Diagnosis:** N/A

**ICD Procedure:** N/A

**HCPCS:** 90791-90792, 90899

**Revenue Codes:** N/A

**Deleted Codes:** N/A

**Policy History**

**Initial Committee Approval Date:** September 22, 2015

**Code Update:** N/A

**Policy Review Date:** July 1, 2016 – policy number correction;  
January 18, 2017

**Cross Reference:** N/A

*2018 Current Procedural Terminology (CPT®)* is copyright 2017 American Medical Association. All Rights Reserved. No fee schedules, basic units, relative values, or related listings are included in CPT. The AMA assumes no liability for the data contained herein. Applicable FARS/DFARS restrictions apply to government use.

Copyright 2018 Blue Cross Blue Shield of Minnesota.