

COMMONWEALTH OF MASSACHUSETTS
Office of Consumer Affairs and Business Regulation
DIVISION OF INSURANCE

1000 Washington Street, Suite 810 • Boston, MA 02118-6200
(617) 521-7794 • Toll-free (877) 563-4467
<http://www.mass.gov/doi>


MAURA HEALEY
GOVERNOR

GARY D. ANDERSON
COMMISSIONER OF INSURANCE

KIM DRISCOLL
LIEUTENANT GOVERNOR

BULLETIN 2024-02

TO: Commercial Health Insurers; Blue Cross Blue Shield of Massachusetts, Inc.; and Health Maintenance Organizations Offering or Renewing Insured Health Products in Massachusetts (“Carriers”)

FROM: Gary D. Anderson, Commissioner of Insurance 

DATE: January 16, 2024

RE: Content of Behavioral Health Wellness Examinations according to Chapter 177 of the Acts of 2022 (“Chapter 177”)

The Division of Insurance (“Division”) issues this Bulletin to supplement Bulletin 2023-05 (“Behavioral Health Wellness Examinations”) - <https://www.mass.gov/doc/bulletin-2023-05-behavioral-health-wellness-exams-issued-january-4-2023/download> - and inform Carriers regarding the requirement to provide behavioral health wellness examinations according to Chapter 177 of the Acts of 2022 (“Chapter 177”). As was noted in Bulletin 2023-05, Chapter 177 amended Massachusetts laws to add M.G.L. c. 175, §47TT; M.G.L. c. 176A, §8UU; M.G.L. c. 176B, §4UU; and M.G.L. c. 176G, §4MM (“Statutes”).

Behavioral Health Wellness Examinations

As noted in Bulletin 2023-05, the annual mental health wellness examination shall be covered with no patient cost-sharing, provided however, that cost-sharing shall be required if the applicable plan is governed by the federal Internal Revenue Code and would lose its tax-exempt status as a result of the prohibition on cost-sharing for this service. For those plans impacted by the federal Internal Revenue Code rules, where the health plan applies patient cost-sharing to the annual mental health wellness examination, the Carrier issuing such insured plan should forward a notice to covered persons informing them that cost-sharing is part of the health plan because the plan would otherwise lose its tax-exempt status and, consequently, if cost-sharing were not applied to the annual mental health wellness examination benefit, the consumer could be subject to certain federal taxation.

Content of Behavioral Health Wellness Exam

The Statutes provide that “mental health wellness examination” means a “screening or assessment that seeks to identify any behavioral or mental health needs and appropriate resources for treatment. The examination may include: (i) observation, a behavioral health screening, education and consultation on healthy lifestyle changes, referrals to ongoing treatment, mental health services and other necessary supports, and discussion of potential options for medication; and (ii) age-appropriate screenings or observations to understand a covered person’s mental health history, personal history and mental or cognitive state and, when appropriate, relevant adult input through screenings, interviews and questions.”

In order to further clarify what may be part of such an annual examination, the Medical Director of the Department of Mental Health convened a working group including medical providers from trade groups and carriers to develop criteria for such examinations. The attached Appendix A presents the guidelines for behavioral health wellness examinations based on the input from this group. When providers follow the guidance presented in Appendix A, the services should be considered a behavioral health wellness examination and the provider should bill the Carrier for the cost of the examination without any cost-sharing applied to the patient. Carriers are expected to make providers with whom they contract aware of Appendix A and this Bulletin.

Using Codes for Behavioral Health Wellness Exams

Carriers are expected to update their systems to enable covered members to obtain behavioral health wellness exams from network providers by no later than March 31, 2024. Carrier are also expected to update their billing systems so that health care providers are able to process claims for the annual behavioral health wellness exam using the following codes:

Procedure Code: 90791 (An integrated biopsychosocial assessment, including history, mental status, and recommendations),

Diagnosis Code: Z13.30 (Encounter for screening examination for mental health and behavioral disorders, unspecified); and

Modifier: 33 (to make clear that the evaluation is for preventive purposes and not an initial evaluation due to a particular presenting issue/illness, and to indicate that it is not subject to cost-sharing).

Carriers will be expected to forward detailed plans by no later than February 1, 2024 about how they will notify consumers about the availability of these covered examinations and how they will notify network providers so that they know which codes to use when seeking reimbursement for such examinations. By no later than February 15, 2024, Carriers are expected to update their consumer materials to advise covered persons about the availability of behavioral health wellness examinations without cost-sharing and to advise providers how to bill for reimbursement for these services.

Information contained within this Bulletin may be amended or updated as further information regarding annual mental health wellness examination standards, coding, or other claim submission requirements, etc., is developed. Carriers will be expected to perform any and all needed updates and modifications to enable payment for such services, including those to enrollment and reimbursement systems. Carriers are also directed to take all appropriate steps to update websites

and coverage materials to notify covered persons of coverage for the annual mental health wellness examination.

Carriers Acting as Administrators

When Carriers are acting as administrators for employment-sponsored non-insured health benefit plans, the Division expects Carriers to encourage plan sponsors to take steps that are consistent with the provisions of this Bulletin 2024-02.

If you have any questions about this Bulletin, please contact Kevin Beagan, Deputy Commissioner for the Health Care Access Bureau, at (617) 521-7323.

APPENDIX A

Mental Health Wellness Examination Overview and Requirements

The **Mental Health Wellness Examination** is performed by a licensed mental health professional* or by a primary care provider. The **Mental Health Wellness Examination** is defined by law to consist of a screen or assessment that seeks to identify any behavioral or mental health needs and appropriate resources for treatment. The Mental Health Wellness Examination is defined as:

1. Observation, a behavioral health screening, education, consultation on healthy lifestyle changes, referral to ongoing treatment, mental health services, other necessary supports, and discussion of potential options for medication;
and
2. Age-appropriate screenings or observations to understand a covered person's mental health history, personal history, mental or cognitive state and, when appropriate, relevant adult input through screenings, interviews, and questions.

The **Mental Health Wellness Examination** may be provided by the primary care provider as part of the annual preventive visit, with systems in place to charge for both.

We recommend that health plans share the information with insured members that this new coverage is available.

We would further recommend that each patient be made aware during the exam/visit that this visit constitutes the annual **Mental Health Wellness Examination** and that there may be follow-up services necessary. This communication also raises awareness of this new coverage and eliminates redundancy from multiple providers.

Component parts of the **Behavioral and Mental Health Wellness Examination** include:

- 1) **History**
 - a. Current mental health concerns; as described by the patient, parent, or guardian;
 - b. Past and current mental health diagnoses;
 - c. Social history, including family and relationship status; social determinants of health; use of tobacco, alcohol, cannabis and derivatives, and other substances;
 - d. History of exposure to trauma or violence/adverse childhood events;
 - e. Gender identity and sexual orientation;
 - f. Family history of mental illness;
 - g. A review of systems to include anxiety/panic; guilt/hopeless; self-injurious or risky behavior; depression; somatic symptoms; suicidal thoughts or plans;
 - h. School or work performance; and
 - i. Use of social media.

- 2) **Brief Mental Health Exam** includes elements of appearance, behavior, agitation, speech, mood, affect, thought process and content, orientation, cognition, insight, and judgment.
 - 3) One or more **Screening Tests** appropriate for the patient's age
 - a. The purpose of the screening test will be to methodically search for mental health problems that may not be evident based on the History and Mental Health Examination.
 - b. Age-appropriate screening tool will be chosen from the "toolkit."
 - c. All tests in the screening tools have been validated.
 - d. At least one screening test that is appropriate for each age range will be conducted.
 - e. Plans should not require a specific tool but allow the clinician to make the determination.
 - 4) **Shared Decision Making**
 - a. Shared decision making may include education and counseling on healthy lifestyle changes and discussion of the need for further evaluation and treatment.
 - 5) **Outcome and recommendations**
 - a. Summarize findings and interventions provided.
 - b. Provide diagnosis if appropriate *but not required for payment*.
 - c. Education around behavioral lifestyle changes, reinforcement of healthy behavior (catch someone doing well), documentation of strengths, and provision of positive supports (motivational interviewing, etc.).
 - d. Explicit next steps and reference to any outcomes and/or recommendations documented as evidence the Mental Health Wellness Examination was performed as a *modular separately identifiable service* for billing.
 - 6) **Behavioral Health Screening Toolkit****
1. There are three options for the execution of the Mental Health Wellness Examination:
 - a. Licensed Mental Health Professional alone;
 - b. Primary Care Provider alone; or
 - c. Integrated into the annual wellness PCP visit as a combination of both.
 2. The Mental Health Wellness Examination may require 20-60 minutes to provide.
 3. The Mental Health Wellness Examination is a screening and assessment examination with an educational component and outcome recommendations.
 4. The Mental Health Wellness Examination identifies behavioral health needs and appropriate resources and/or treatments.
 5. Prevention is a key aspect to the Mental Health Wellness Examination in which issues are identified early and outcomes/recommendations documented to promote healthy behaviors.
 6. Outcomes/Recommendations may include, but not be limited to:
 - a. Tracking ACES and/or social determinants of illness;
 - b. Supporting wellness and self-care activities;
 - c. Emerging behavioral health diagnoses;
 - d. A single session of psychoeducation/motivational interviewing;

- e. Use of Artificial Intelligence or smart phone Apps;
 - f. Referral to another skilled provider; and
 - g. Activation of the Behavioral Healthcare System.
7. This is not a treatment statute.
 8. Documentation requirements for this Mental Health Wellness Examination must be a *separately identifiable service* from the medical documentation of the PCP visit.
 9. Any positive screens must include recommendations for these positive findings.
 10. There should be a clear understanding of next steps generated by the findings of the Mental Health Wellness Examination.

***Licensed Mental Health Professional** is a licensed physician who specializes in the practice of psychiatry, a licensed psychologist, a licensed supervised mental health counselor, a licensed independent clinical social worker, a licensed certified social worker, a licensed mental health counselor, a licensed psychiatric nurse mental health clinical specialist, a licensed psychiatric mental health nurse practitioner, a licensed physician assistant who practices in the area of psychiatry, a licensed alcohol and drug counselor I, or a licensed marriage and family therapist with the lawful scope of practice for such therapist.

****Behavioral Screening Toolkit** is not an exhaustive or exclusive list of validated screening tools. It is intended that the evolution of the field may allow newer tools as they are developed and chosen by the PCP or Licensed Mental Health Professional performing the examination. These screening tools are an aid for a comprehensive assessment of an individual's behavioral and mental health status. Included may be toolkits developed by Boston Children's Hospital, Massachusetts Medical Society, Massachusetts Health & Hospital Association, Massachusetts Psychiatric Society, or national healthcare agencies.