

**State of New York**  
**Office of Alcoholism and Substance Abuse Services**

<b>IMPLEMENTATION OF AMENDMENTS TO PART 822</b> <b>CHEMICAL DEPENDENCE OUTPATIENT SERVICES</b>
---

This is to confirm that on December 27, 2006, OASAS adopted final regulations amending 14 NYCRR Part 822, Chemical Dependence Outpatient Services. You may access a copy of the amended Part 822 regulation at <http://www.oasas.state.ny.us/regs/822.cfm#top>. The amended regulation was the subject of extended and constructive debate involving OASAS and the chemical dependence service provider community.

To ensure the appropriate and orderly implementation of the amendments to Part 822, and for the purposes of evaluation and compliance with the amended regulations, providers are advised as follows:

1. Within 45 days from adoption, OASAS will issue a model Utilization Review (UR) plan for use by Part 822 providers.
2. Within 90 days from adoption, providers that choose not to use the OASAS-developed UR plan must submit a proposed UR plan to the OASAS Division of Systems, Program Performance and Analysis for review and approval.
3. Within 180 days from adoption, for the purposes of regulatory compliance reviews and other OASAS survey and reviews, providers must have fully implemented and be in compliance with the amendments to Part 822.

Providers with any questions regarding the amended regulation should contact the OASAS Field Office for assistance. Providers who require technical assistance should contact the OASAS Training/Technical Assistance Unit.

---

**PART 822 - Summary of Significant Amendments**

---

The following is a summary of significant amendments to Part 822 – Chemical Dependence Outpatient Services.

**1. Individual Counseling - Section 822.2 (c) (1)**

Summary of Changes: The regulation adds a new requirement that for each individual patient, at least one out of every ten counseling sessions must be an individual counseling session of at least one half hour in duration with the individual patient’s primary counselor, unless a different frequency or intensity is otherwise determined on a case-specific basis, with supporting documentation, by the multidisciplinary team

Discussion: Individual counseling plays an important role in the treatment of patients. It provides both the patient and the patient’s primary counselor the opportunity to discuss the

patient's progress in the program, whether or not the patient's needs are being met and other issues that are best dealt with on a one-on-one basis.

OASAS has reviewed the available literature and determined that a minimum of one (1) out of every ten (10) counseling sessions should be an individual session. The regulation does recognize that the final decision on the number of individual sessions should rest with the multidisciplinary team, which may determine and document a different frequency of individual sessions.

## **2. Utilization Review – Sections 822.6 (a) – (e)**

**Summary of Changes:** The regulation provides additional requirements and guidelines on Utilization Review (UR). Specifically, adds a new provision that OASAS will develop and provide a model UR process for provider use or, alternatively, the provider may submit a proposed UR plan to OASAS for review and approval. Also adds a new provision that all patients who are attending a program for 365 days be subject to utilization review at the one year point, and every 90 days thereafter.

**Discussion:** The former regulation required providers to develop a utilization review plan, and UR is a current requirement for eligibility for Medicaid reimbursement.

The former regulations contain minimal guidance on the elements of a proper and effective UR plan. The regulation now provides the guidance on what information should be part of a UR plan and provides that OASAS may review and approve the plan. In addition, as stated above, there is a new requirement that all patients who are attending a program for over 365 days be subject to utilization review at the one year point, and every 90 days thereafter. This recognizes the need to review the care of such patients to determine whether or not their needs are best met at the existing level and frequency of care, or through referral for other, more appropriate services.

## **3. Staff Training – Section 822.7 (c)**

**Summary of Changes:** The regulation provides more specificity on the types of training staff should receive. It indicates that training can be provided directly by the service, through other entities, or as part of the employees' regular continuing education program. The regulation also requires that training be conducted in all areas at least every three years.

**Discussion:** The former regulation required a program to have regular, scheduled training in at least six subject areas. The new regulation expands the required types of training to include child abuse and domestic violence, vocational rehabilitation and employment preparation services, cultural diversity and cultural competence, tobacco dependence, and compulsive gambling.

OASAS plans to expand training opportunities to assist providers in meeting some of these requirements. Plans are underway to incorporate internet-based training, as well as develop other new training initiatives for treatment providers.

## **4. Compulsive Gambling – Section 822.10**

**Summary of Changes:** Adds new requirements for services that elect to provide compulsive gambling treatment to chemical dependent/abusing individuals.

Discussion: This amendment recognizes OASAS' statutory authority over compulsive gambling treatment services and provides the requirements for outpatient programs that offer compulsive gambling treatment to persons who have a co-occurring chemical dependence and compulsive gambling condition. Consequently, the new requirements **are only applicable to Part 822 services that elect to provide compulsive gambling treatment to chemical dependent/abusing individuals**. Providers that do not offer compulsive gambling services are not subject to the section 822.10 requirements.

However, for all providers section 822.4 requires a gambling history as part of the comprehensive evaluation process and treatment plans be based on the patient's comprehensive evaluation.

It includes the services to be provided to patients, including treatment planning, content of group and individual counseling sessions, family and couples counseling.

OASAS is in the process of developing a new "stand-alone" credential for compulsive Gambling counselors who serve this population in chemical dependence or mental health settings. In addition, there are plans to establish a Specialty Designation to be associated with the existing CASAC credential which will also demonstrate knowledge and skill in compulsive gambling counseling and will help many Part 822 providers address this need among their population.

#### **5. Standards Pertaining to Medicaid Reimbursement: Excessive Provision of Services – Section 822.11(k)**

Summary of Changes: Adds a new requirement that specifically prohibits an outpatient provider from providing services in excess of the clinical needs of its patients. The new regulation also includes provider practices that are potential indicators of excessive provision of services.

Discussion: This new section was added to recognize the harmful impact of programs that provide excessive services to patients. The regulation in no way limits services to individual patients and makes clear that a patient is to receive all the services that are determined to be necessary, pursuant to his/her documented treatment plan. The regulation provides potential indicators for determining whether a program may be providing excessive services.