

**Subchapter HH. Standards for Reasonable Cost Control and Utilization Review for  
Chemical Dependency Treatment Centers  
28 TAC §3.8001**

**INTRODUCTION.** The commissioner of the Texas Department of Insurance (TDI) adopts the repeal of 28 TAC §§3.8001 - 3.8030 and adopts new 28 TAC §3.8001, concerning chemical dependency treatment standards. The new section is adopted with changes to the proposed text published in the July 14, 2023, issue of the *Texas Register* (48 TexReg 3829). Section 3.8001 was revised in response to public comment and to reference up-to-date criteria.

**REASONED JUSTIFICATION.** The repeals of 28 TAC §§3.8001 - 3.8030 are necessary to remove existing dated and obsolete standards. New §3.8001 requires group health benefit plan issuers subject to Insurance Code Chapter 1368 to use the applicable treatment criteria published in the 27th edition of the MCG Care Guidelines (formerly Milliman Care Guidelines), the 3rd edition of the American Society of Addiction Medicine (ASAM) Criteria, or the 4th edition, Volume I, Adults, of the ASAM Criteria for any utilization review of treatment required under Insurance Code Chapter 1368. Both the 3rd edition ASAM Criteria and the 4th edition, Volume 1, are in effect and are collectively referred to as the ASAM Criteria. This provides group health benefit plans flexibility to select the treatment standards that work best for their utilization review systems. Following the MCG Care Guidelines and the ASAM Criteria will ensure that group health benefit plan issuers cover an appropriate continuum of care for treatment of substance use disorders and support the health, safety, and welfare of Texas insureds.

New §3.8001 identifies the treatment standards that must be used for coverage of chemical dependency treatment. Subsection (a) explains that the purpose of the rule is to implement Insurance Code §1368.007. Subsection (b) clarifies that the section applies to a group health benefit plan that is subject to Insurance Code Chapter 1368. Subsection (c) specifies the treatment standards adopted by the section. Subsection (d) requires that group health benefit plans use either the MCG Care Guidelines or the ASAM Criteria for any treatment required to be covered under Insurance Code Chapter 1368.

In response to a comment, subsection (c) of new §3.8001 is adopted with changes to the text as proposed. Subsection (c) is modified to add a reference the 4th edition, Volume I, Adults, of the ASAM Criteria, which was released in October 2023, in addition to the 3rd edition of the ASAM Criteria referenced in the proposal.

These changes will not result in the rule affecting people who were not on notice by the proposal, nor do they materially alter the issues addressed in the proposal. The proposal notified insurers, other third-party reimbursement sources, and chemical dependency treatment centers that the new section was intended to reference current and valid criteria, and that TDI intends to update the referenced criteria in the section as needed. TDI has reviewed the updates to the ASAM Criteria 4th edition, Volume I, Adults, and determined that they will not significantly change how insurers, other third-party reimbursement sources, and chemical dependency treatment centers use it for Insurance Code §1368.007. The 3rd edition of the ASAM Criteria remains valid and is still needed until other volumes of the 4th edition are released.

Additionally, the new rule will not become effective until 180 days after adoption, to provide adequate time for group health benefit plans to transition to the new

standards. TDI provided notice of its intent to delay the effective date of this rule in the rule proposal.

**SUMMARY OF COMMENTS AND AGENCY RESPONSE.**

**Commenters:** TDI received comments from one commenter, Texas Association of Health Plans (TAHP), which also had a representative speak on its behalf at a public hearing on the proposal held on August 8, 2023. TAHP supports the proposal with changes.

**General comments**

**Comment.** A commenter states that it supports the proposed rule.

**Agency Response.** TDI appreciates the support.

**Comment.** A commenter recommends that TDI remove reference to specific editions of the standards to avoid the regulatory burden of having to adjust this rule regularly. The commenter notes that the 4th edition of the ASAM Criteria will soon replace the 3rd edition that was proposed.

**Agency Response.** TDI appreciates the comment and has modified subsection (c) of §3.8001 as proposed to adopt the 4th edition, Volume I, Adults, of the ASAM Criteria, as released in October 2023, in addition to the 3rd edition, which remains part of the ASAM Criteria. However, TDI declines to remove reference to specific editions of the standards, as this provides the public with clear notice of the specific editions providing the standards that are applicable.

**Commenter for the proposal with changes**

**Comment.** A commenter suggests that TDI include an additional treatment standard, specifically InterQual Criteria. The commenter asserts that along with MCG Care Guidelines, InterQual is one of the two more commonly used criteria for chemical dependency.

**Agency Response.** TDI declines to adopt the InterQual Criteria. TDI recognizes that patients, plans, and providers need to have the flexibility to use and access the most current and patient-specific treatment standards available, but TDI has determined that the MCG Care Guidelines and the ASAM Criteria sufficiently meet this need and address the treatment standard requirements under Insurance Code §1368.007. These guidelines and criteria are widely used by most health benefit plans and will ensure that group health benefit plan issuers cover an appropriate continuum of care for the treatment of substance use disorders.

**Subchapter HH. Standards for Reasonable Cost Control and Utilization Review for  
Chemical Dependence Treatment Centers  
Repeal of 28 TAC §§3.8001 - 3.8030.**

**STATUTORY AUTHORITY.** The commissioner adopts the repeal of §§3.8001 - 3.8030 under Insurance Code §§1355.258, 1368.007, 4201.003, and 36.001.

Insurance Code §1355.258 requires the commissioner to adopt rules necessary to implement Chapter 1355, Subchapter F.

Insurance Code §1368.007 requires that TDI adopt by rule chemical dependency treatment standards for use by insurers, other third-party reimbursement sources, and chemical dependency treatment centers. These standards must provide for (1) reasonable

control of costs necessary for inpatient and outpatient treatment of chemical dependency, including guidelines for treatment periods; and (2) appropriate utilization review of treatment, as well as necessary extensions of treatment.

Insurance Code §4201.003 authorizes the commissioner to adopt rules to implement Chapter 4201.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

**TEXT.**

**§3.8001. Definitions.**

**§3.8002. Purpose and General Provisions.**

**§3.8003. Criteria.**

**§3.8004. Admission and Monitoring.**

**§3.8005. Utilization Review.**

**§3.8007. Admission Criteria for Inpatient (Hospital or 24-hour Residential) Detoxification Services.**

**§3.8008. Continued Stay Criteria for Inpatient (Hospital or 24-hour Residential) Detoxification Services.**

**§3.8009. Discharge Criteria for Inpatient (Hospital or 24-hour Residential) Detoxification Services.**

**§3.8010. Recommended Length of Stay for Inpatient (Hospital or 24-hour Residential) Detoxification Services.**

**§3.8011. Admission Criteria for Inpatient Rehabilitation/Treatment (Hospital or 24-hour Residential) Services.**

**§3.8012. Continued Stay Criteria for Inpatient Rehabilitation/Treatment (Hospital or 24-hour Residential) Services.**

**§3.8013. Discharge Criteria for Inpatient Rehabilitation/Treatment (Hospital or 24-hour Residential) Services.**

**§3.8014. Recommended Length of Stay for Inpatient Rehabilitation/Treatment (Hospital or 24-hour Residential) Services.**

**§3.8015. Admission Criteria for Partial Hospitalization Services.**

**§3.8016. Continued Stay Criteria for Partial Hospitalization Services.**

**§3.8017. Discharge Criteria for Partial Hospitalization Services.**

**§3.8018. Recommended Length of Stay for Partial Hospitalization Services.**

**§3.8019. Admission Criteria for Intensive Outpatient Rehabilitation/Treatment Service.**

**§3.8020. Continued Stay Criteria for Intensive Outpatient Rehabilitation/Treatment Service.**

**§3.8021. Discharge Criteria for Intensive Outpatient Rehabilitation/Treatment Service.**

**§3.8022. Recommended Length of Stay for Intensive Outpatient Rehabilitation Treatment Service.**

**§3.8023. Admission Criteria for Outpatient Treatment Service.**

**§3.8024. Continued Stay Criteria for Outpatient Treatment Services.**

**§3.8025. Discharge Criteria for Outpatient Treatment Service.**

**§3.8026. Recommended Length of Stay for Outpatient Treatment Service.**

**§3.8027. Admission Criteria for Outpatient Detoxification Treatment Service.**

**§3.8028. Continued Stay Criteria for Outpatient Detoxification Treatment Services.**

**§3.8029. Discharge Criteria for Outpatient Treatment Service.**

**§3.8030. Recommended Length of Stay for Outpatient Detoxification Treatment Service.**

**Subchapter HH. Standards for Reasonable Cost Control and Utilization Review for  
Chemical Dependence Treatment Centers  
28 TAC §3.8001**

**STATUTORY AUTHORITY.** The commissioner adopts new §3.8001 under Insurance Code §§1355.258, 1368.007, 4201.003, and 36.001.

Insurance Code §1355.258 requires the commissioner to adopt rules necessary to implement Chapter 1355, Subchapter F.

Insurance Code §1368.007 requires that TDI adopt by rule chemical dependency treatment standards for use by insurers, other third-party reimbursement sources, and chemical dependency treatment centers. These standards must provide for (1) reasonable control of costs necessary for inpatient and outpatient treatment of chemical dependency, including guidelines for treatment periods; and (2) appropriate utilization review of treatment, as well as necessary extensions of treatment.

Insurance Code §4201.003 authorizes the commissioner to adopt rules to implement Chapter 4201.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

**TEXT.****§3.8001. Chemical Dependency Treatment Standards.**

(a) Purpose. This section implements Insurance Code §1368.007, concerning Treatment Standards.

(b) Applicability. This section applies to a group health benefit plan that is subject to Insurance Code Chapter 1368, concerning Availability of Chemical Dependency Coverage.

(c) Treatment standards. For the purpose of this section, the department adopts the treatment standards in the 27th edition of the MCG Care Guidelines; the 3rd edition of the American Society of Addiction Medicine (ASAM) Criteria; and the 4th edition Volume I, Adults, of the ASAM Criteria.

(d) Coverage required. For any treatment for which coverage is required under Insurance Code Chapter 1368, a group health benefit plan must use the MCG Care Guidelines or ASAM Criteria, as applicable to the treatment and care provided.

**CERTIFICATION.** This agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Issued at Austin, Texas, on December 14, 2023.

# 2023-8405

TITLE 28. INSURANCE  
Part I. Texas Department of Insurance  
Chapter 3. Life, Accident, and Health Insurance and Annuities

Adopted Repeal and New Section  
Page 9 of 9

DocuSigned by:  
*Jessica Barta*  
5DAC5618BBC74D4... \_\_\_\_\_  
Jessica Barta, General Counsel  
Texas Department of Insurance

The repeal of 28 TAC §§3.8001 - 3.8030 and new 28 TAC §3.8001 are adopted.

DocuSigned by:  
*C Brown*  
FC5D7EDDFB4F8... \_\_\_\_\_  
Cassie Brown  
Commissioner of Insurance

Commissioner's Order No. 2023-8405