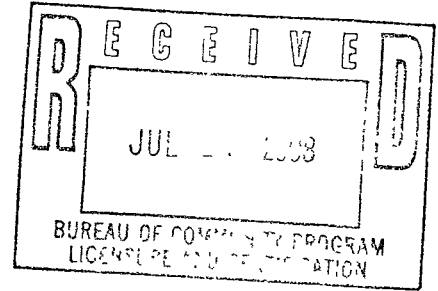




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INDEPENDENT REGULATOR
REVIEW COMMISSION



2654

July 21, 2008

Via Federal Express and Fax (717) 787-3188

Janice Staloski, Director, Bureau of Community Program Licensure and Certification
Department of Health
132 Kline Plaza, Suite A
Harrisburg, PA 17104-1579

Re: Comments on draft final rulemaking for 4 PA Code 255.5

Dear Ms Staloski:

Magellan Health Services (including Magellan Behavioral Health and Magellan Behavioral Health of Pennsylvania) continues to strongly support the proposed changes to the Drug and Alcohol confidentiality regulations. As noted in our January 11, 2008 letter (copy enclosed for your reference), there are several reasons why these changes are much needed in Pennsylvania.

The proposed changes would provide for significantly better coordination of care for members with co-occurring psychological and substance abuse disorders. Currently 255.5 does not permit our care managers to follow-up on critical clinical information that is necessary for Magellan to effectively coordinate care for members with co-occurring disorders.

255.5 also makes it difficult for Magellan to review care for medical necessity. Under the current regulation, information that we receive is often incomplete, making it very difficult for our clinicians to properly assess the medical necessity of the proposed treatment. While several commenting parties noted that Act 106 limits information released to a certification from a physician or psychologist that the patient is suffering from alcohol or drug dependency, as you point out in the 'Frequently Asked Questions' Act 106 does not apply to the majority of individuals with health insurance in Pennsylvania. Proper management of this benefit is particularly important in a state like Pennsylvania, where substance abuse benefits are typically limited in most commercial insurance contracts to the state mandated minimum of only 30 days. If this benefit is not managed well, the member could exhaust their benefits and still be in need of services.

Many commenting parties seem to be focusing on the idea that these changes to 255.5 are somehow eroding patient confidentiality protections in Pennsylvania. This is simply not true. As we noted previously, 42 CFR part 2 - Confidentiality of Alcohol and Drug Abuse Patient Records, which were promulgated after 255.5, contain very stringent protections related to substance abuse confidentiality. In addition, the HIPAA Privacy regulations have also added confidentiality protections to safeguard member information held by providers and insurance companies. Under both the federal law and the proposed changes to 255.5, the member must consent in writing to the release of information related to their substance abuse treatment, and must indicate the specific information to be disclosed and the purpose of the disclosure. In addition, the federal requirements in 42 CFR Part 2 expressly prohibit the redisclosure of any information disclosed under this act. Magellan has very stringent policies and procedures in place to protect the confidentiality of patient information in our possession. Information released to us for utilization review is kept confidential and will not be disclosed in any manner that is not expressly permissible under the law.

We urge you to adopt the proposed changes to this regulation. We believe that these changes will make a significant and positive difference in the coordination of care in the HealthChoices program and in the management of insurance benefits for our commercial insurance members. The changes to this regulation are necessary and will enhance our ability to provide the best care and services to our members. If you have any questions related to these comments you may reach me at (860) 507-1910 or RPetrella@magellanhealth.com to discuss.

Sincerely,

A handwritten signature in black ink, appearing to read 'Russell C. Petrella', with a stylized flourish at the end.

Russell C. Petrella, Ph.D.
President
Magellan Behavioral Health of Pennsylvania

Enc. January 11, 2008 comment letter