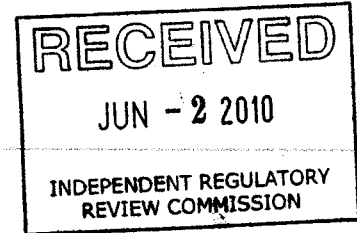


2687

From: Totino, Michaele
Sent: Wednesday, June 02, 2010 9:44 AM
To: 'danathomps@state.pa.us'; 'ra-ODPComment@state.pa.us'
Cc: Jewett, John H.; Gelnett, Wanda B.
Subject: FW: DPW Final-Form Regulation #14-512 (IRRC# 2687): "Individual Support Plan for Individuals with Mental Retardation"



Enclosed please find a comment we received on this final-form regulation

From: SSpreat@woods.org [mailto:SSpreat@woods.org]
Sent: Tuesday, June 01, 2010 4:22 PM
To: Totino, Michaele
Subject: RE: DPW Final-Form Regulation #14-512 (IRRC# 2687): "Individual Support Plan for Individuals with Mental Retardation"

Dear Ms. Totino,

Thank you for sending me the copy of feedback and Office of Developmental Program responses regarding the proposed rulemaking for "Individual Support Plan for Individuals with Mental Retardation."

I was both flattered and pleased that the Office of Developmental Programs gave consideration to my suggestions and incorporated several of them. Overall, I think the document is improved, but I retain a couple of concerns. They are summarized below:

Maladaptive behavior (6400.163) - While I am pleased that the outdated term, "maladaptive behavior," has been dropped, I believe that the proposed replacement term, "symptom of a diagnosed psychiatric illness," is perhaps too narrow. Regulation 6400.163 seems to have been written specifically to address those situations in which a psychiatrist is treating a behavior rather than a symptom of a psychiatric illness. While one might quibble as to whether a behavior is a symptom of illness, it must be recognized that there are psychiatrists who will honestly acknowledge that they are treating behaviors rather than symptoms of hypothesized mental illnesses. Both lithium and risperdal, for example, have published literature attesting to their abilities to address aggressive behavior. In a situation in which the psychiatrist is treating aggression with lithium, it would appear that ODP has alleviated the team from any need or responsibility to develop any sort of plan of support because the treatment of behavior is no longer addressed. If the psychiatrist has made no diagnosis on Axis I, it follows that 6400.163 no longer pertains.

Staffing Needs (6400.45.d) - I agree with ODP's point that it is the agency's problem to figure out how to ensure staffing when there are call outs. My concern is that it may be physically impossible to implement a staffing ratio exactly as written in the ISP. Consider three individuals living in a CLA. Each of their teams concludes that each individual requires 1:2 staffing. To accomplish this would require 2 staff in the home, but two staff in the home is actually 1: 1.5, which is not providing staffing exactly as written. I would suggest that the phrase "at least" be added, making the sentence read "...staff ratio as specified in the ISP shall be implemented as written" should be written "staff ratio as specified in the ISP shall not be less than is written in the ISP."

Staffing Needs (6400.45) - In my initial set of comments, I raised concerns regarding assigning the responsibility for identifying staffing ratios to the ISP team. I could not find a response to this comment. It has been my experience that some teams will attempt to use increased staffing as a means with which to avoid challenging clinical programming. If we assign the authority for staffing (and staff qualifications) to team members, will we not wind up with excessive amounts of 1:1 staffing? Will the commonwealth be prepared to fund a mandate that derives from an ISP team?

Measurement of goals (6400.125) - ODP modified this section to allow a team to determine how to best measure an individual's current condition as well as progress towards a goal or desired outcome. This was a good

change, but I think it needs to be taken further. The standard of care with regard to goals or desired outcomes) is that they must be objective, observable, and measurable. These three words should be included in the regulation, lest the resultant goals (desired outcomes) be the vague, fuzzy, and generally un-interpretable goals found in the mental health system. This is an area of quality that the mental retardation area pioneered, going back to Mager's Instructional Objectives. There is no good reason to permit imprecision here.

Thanks for the additional opportunity to offer comment.

Scott Spreat, Ed.D.
Vice President for Behavioral Health
Woods Services
Langhorne, PA, 19047

From: Totino, Michaele [mailto:mtotino@IRRC.STATE.PA.US]
Sent: Tuesday, June 01, 2010 1:36 PM
To: tim@philalliance.net; steve@par.net; jill.rogers@jevs.org; jkissling@comhar.org; jpaddo@allied-services.org; Spreat, Scott
Cc: Jewett, John H.
Subject: DPW Final-Form Regulation #14-512 (IRRC# 2687): "Individual Support Plan for Individuals with Mental Retardation"

DPW has submitted the final regulation entitled "Individual Support Plan for Individuals with Mental Retardation."

IRRC plans to meet and act on this regulation at our public meeting at 10:00am on Thursday, July 15, 2010. The Agenda and any changes to the time or date of the meeting, will be posted on IRRC's website at www.irrc.state.pa.us.

Please note that any comments should be submitted to the Board prior to the 48 hour black-out period, which begins at 10:00am on Tuesday, July 13, 2010. Please provide IRRC with a copy of any comments submitted as well. Please note that all correspondence and documents relating to a regulation submitted to IRRC are a matter of public record and appear on our website.

For a copy of the regulation or if you have any substantive questions regarding the regulation, please contact DPW at (717) 783-2376. You can also download the final-form regulation from our website, using the following link: <http://www.irrc.state.pa.us/Regulations/RegInfo.cfm?IRRCNo=2687>

If you have any questions regarding the regulatory review process, our website can also be helpful in providing you with this information. In addition, please don't hesitate to contact myself or John Jewett at (717)783-5475 or jjewett@irrc.state.pa.us with questions.

Thank you.

Ms. Michaele A. Totino

Regulatory Analyst
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