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BEHAVIORAL HEALTH

November 22, 2010

RE: Draft RTF Regulations

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Mr. James Smith  
Independent Regulatory Review Commission  
Commonwealth of PA  
Harrisburg, PA 17105

Mr. Smith

I am writing to provide comment on the recently issued Draft Regulations proposed for Residential Treatment in Pennsylvania. I applaud the efforts made to consolidate the standards, practices, and operational tenants into a single resource and create efficiencies with regulatory understanding/compliance. The draft regulations illuminate the challenges of many patients, families, community resources, regulatory bodies, and the providers. I will comment on several areas of significant concern with the newly proposed regulations including the resources utilized to gather rationale for changes, operational size limitation, Clinical Directors licensure, Master's level staffing ratio's for patients, introduction of family advocate, elimination of payment for therapeutic leaves, and additional requirements on staff.

The development of the draft regulations is not clearly delineated given the resources utilized for the proposed regulations. In efforts to understand the intention of the proposed draft regulations, I have been in contact with other local and regional providers inquiring as to their input or their patients/families input into the regulations; categorically none of the providers I contacted participated in the development. Clear references made to literature review and the family/patient advocacy groups sought for their input in to the regulations would be beneficial when comparing best practices and in the consideration of future implementation.

Operationally, the proposed regulations will limit the overall operational capacity and unit size. This restrictive change would directly impact Foundations Behavioral Health by reducing our current capacity by 12 beds and creating a financial impact in excess of \$400,000 and the loss of approximately 15 employees.

The newly proposed regulations require a Residential Treatment Director, Medical Director, and Clinical Director. Currently, Foundations Behavioral Health employs all of these positions in the general hospital organization; however, the specifics of licensure and directed programmatic focus can be a restrictive imposition based on the narrow criteria including limited licensure for the Clinical Director. Ascribing the title Medical Director for a specific attending psychiatrist role in the Residential treatment program can produce confusion in a larger hospital system.

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The staffing ratios identified in the proposed regulations necessitate clarity. The ratio regulations indicate the presence of a Mental Health Professional for the RTF but further clarify that for RTF's serving more than 6 patients that one Mental Health Professional be present for every 6 patients during waking hours. A Mental Health Professional as defined possesses a graduate degree. The implementation of this regulation would have RTF's supervised at both a higher staffing level than many acute units in the state and with a Master's degree individual for all waking hours. If implemented, Foundations Behavioral Health would need to replace approximately 26 undergraduate degree employees with graduate degree individuals. This staffing change will be employment neutral if the appropriate number of skilled, highly qualified graduate degree individuals can be recruited to fill all waking shifts with patients seven days a week. The staffing change will financially impact the organization with an additional \$241,000 that does not include the recruiting and orientation expenditures.

Staffing expenditures will further involve the hiring of an independent family advocate. Foundations Behavioral Health currently employs primary and family therapists, as well as a patient/family advocate. Given the parameters outlined for the independent family advocate, a new employee would need to be hired specifically for this task and would exact an expenditure of \$45,000-\$50,000 annually. Also referenced was the identification of a single person for contact throughout the entire admissions process, ideal in theory but presents significant implementation challenges if provided 24 hours a day, seven days a week.

The expressed standardization of training practices is beneficial. Foundations Behavioral Health currently offers extensive training and orientation to residential employees, additional training may further benefit the treatment implementation with the expected salary costs to be absorbed by either the provider or the negotiated rate setting standards.

The newly proposed regulations would restrict payment for therapeutic leaves that are encouraged as part of the treatment process. RTF patients are provided for up to 48 leave days per year and with a reduced capacity to 48 patients, assuming 85% utilization, this would equate to a reduction in 2,304 days of treatment that would not be available for reimbursement, thus reducing overall utilization will be reduced to 72%. The effective reduction just for unreimbursed therapeutic leave would drive the per diem nearly 20% higher for equivalent services rendered. Additionally, a significant amount of staff time and transportation expenditures are spent during the process of therapeutic leaves for the patients and families.

Financial practices are detailed for the patients that will require a significant investment of staff time to ensure compliance. These practices include the establishment of individual interest bearing accounts for patients in treatment longer than 30 days and RTF providers are also to facilitate the patient's application for local county assistance office.

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The enrollment utilization of food stamps for facility based dietary needs is not operationally feasible.

The cost allocations outlined in the allowable costs section of the regulations remain unclear and without mandate to afford commensurate payment for increased provider responsibilities. Third party payor assigned responsibilities and relative MA payment structures are not prescribed in a manner to ensure demonstrated cost of provision of services. Calculations utilized to determine allowable costs minimize the definition of administrative expense. As the facility capacity is decreased, the administrative expenses limit the ability to defray costs across a larger RTF patient population.

The proposed comprehensive changes will conservatively increase our per diem rate by 40-45%. The language in the draft regulations does not ensure that providers will be reimbursed congruently or to any specified increased level for the large number of increased operational practices ascribed in the newly proposed regulations.

The concept of creating operational regulations in a single repository is a great concept, as is the expressed desire to optimize the efficacy of treatment and reduce the time out of the community. I laud the State's effort in the pursuit of these ideals. I am concerned that the full implementation of the proposed draft regulations without amended changes will a) limit the accessibility of treatment in Pennsylvania, b) force individuals/families to seek treatment outside of Pennsylvania thus taking them farther away from their communities, c) change staffing/operational practices to levels exceeding inpatient hospital standards, d) establish unrealistic staffing expectations for graduate degree staff that are a challenge to recruit as the result of the limited applicant pool, e) demand operational enhancements that are not clinically driven best practices with an unrealistic expectation that payors will provide commensurate reimbursement, and f) financially compromise many providers attempting accreditation, consequently forcing many programs to eliminate the residential treatment level of care from the services provided.

Respectfully submitted,



Robert A. Weinhold  
Chief Executive Officer

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Cooper, Kathy

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**From:** Weinhold, Bob [bob.weinhold@uhsinc.com]  
**Sent:** Monday, November 22, 2010 5:45 PM  
**To:** Smith, James M.; ra-rtfcomments@state.pa.us  
**Cc:** IRRC  
**Subject:** Draft RTF Proposal  
**Attachments:** DOC071.pdf

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Good evening Mr. Smith,  
I have attached comments to you regarding the proposed Draft RTF regulations.  
Have a good Holiday.  
Best regards,  
Bob Weinhold  
Chief Executive Officer  
Foundations Behavioral Health  
Office: 215.489.3026

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