14-521-10

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November 19, 2010

Ms. Lisa McMullen
Department of Public Welfare
OMHSAS, BPPD
PO Box 2675,
DGS Complex
Harrisburg, PA 17105-2675

Re: Regulation No. 14-521 – Public Comment

Dear Ms. McMullen:

On behalf of PAPSRS (Pennsylvania Association of Psychiatric Rehabilitation Services), I am submitting the following comments and concerns regarding Regulation No. 14-521, proposed rule making published in the Pennsylvania Bulletin (40Pa.B 6101), Oct. 23, 2010 and pertaining to regulations for Psychiatric Rehabilitation Services.

PAPSRS is a membership organization representing approximately 175 organizations and practitioners providing Psychiatric Rehabilitation services within Pennsylvania. PAPSRS is a significant stakeholder and is pleased to have been an active participant in the Commonwealth's process to develop regulations for Psychiatric Rehabilitation Services (PRS) and is fully supportive of the state's submission of a State Plan Amendment to allow PRS to be a Medicaid and HealthChoices reimbursable service in Pennsylvania. PAPSRS members believe that Psychiatric Rehabilitation Services are cost effective; have been shown to reduce the dependence on more costly clinical interventions; are met with greater participant satisfaction; and add appreciably to the Quality of Life of persons in Recovery. These services must, however, be adequately funded, and we believe that it is good stewardship for OMHSAS to be pursuing the infusion of matching federal dollars to this service which is currently dependent on limited or decreasing Base or Reinvestment funding. It is understood that the development and promulgation of regulations for Psychiatric Rehabilitation Services is important to this process.

PAPSRS believes that the format and content of the proposed PRS regulations is a significant improvement over the Standards presently in use, and are much needed as Pennsylvania moves forward. We believe that the proposed regulations reflect much more of a Recovery orientation and provide more clarity of state expectations and provider responsibility. We particularly applaud changes that minimize the cumbersome and largely unnecessary distinctions of Site based and Mobile services, which were emphasized in the 2001 Standards. We agree also with a movement away from hard and fast service "model" distinctions. We endorse, and believe the proposed regulations reflect, a definition of PRS which is more appropriately based on adherence to professionally recognized values, principles, methodologies and outcomes. We understand that the proposed regulations will allow programs to be innovative and accommodating to individual participant need, as long as the submitted Service Description reflects recognized PRS values, principles, methodologies and outcomes and there is ongoing reflection of the Service Description in the day to day operation of the service. We concur in the need for the formal codification of PRS regulations within Pennsylvania.

We believe that, from this point forward, the position of PAPSRS is best addressed by an outline or bulleted format:

PAPSRS Supports the Proposed Regulations in regard to :

1) The minimization of emphasis on the location of the service and models in favor of the proposed value, principle and outcome orientation.
2) Regulations language reflective of Recovery thinking, including participant empowerment and choice.
3) Realistic minimum requirements for documentation and supervision which seem to emphasize spending time with participants rather than paperwork or administrative functions, while providing solid foundation for professional practice.
4) Greater flexibility to design and provide services to address the diversity of individual needs and preferences.
5) The Statement of Rights, which is much more consistent with Recovery and Psychiatric Rehabilitation philosophies and beliefs.
6) Recognition of the CPRP (Certified Psychiatric Rehabilitation Practitioner) credential as a reflecting sound knowledge base and competencies for staff.
7) Staffing qualifications which seem more relevant to PRS, and which allow for Peer Support and a career ladder.
8) Reasonable expectations of required preparatory and continuing skill training for PRS staff.
9) The elimination of artificial limitations of time (length of service) or amounts (units of service) of PRS available to participants.

PAPSRS is concerned with the following (referenced by section):

10) The definition **(5230.3)** and ongoing use of the term "facility" to refer to *"An agency or organization licensed by the Department to deliver PRS."*

a) We believe that this definition and use of this term creates unnecessary confusion and ambiguity because of more colloquial definitions which suggest "facility" as a structure or location or institution or attitude or capacity.

b) We believe that clarity would be gained by use of other terms such as legal entity, licensed provider, agency, corporation, organization, etc. which would not give rise to old issues of Site Based vs. Mobile or allowed location of services.

c) The inherent ambiguity of the term seems clear in that there are several instances within the proposed regulations, when the term seems to clearly denote "location" rather than "licensed entity". (ex: 5230.52(g), 5230.53, and 5230.54(a) and others)

11) The limitations imposed by the specific language of "physician or licensed practitioner of the healing arts". (5230.21 (3); 5230.31(1))

a) We understand that this is imposed by federal or state thinking or provisions, which may be outdated.

b) We recognize the effort to mitigate this limitation in the future by language in the definitions section, ("those professional staff currently recognized by the Department")

c) We believe if this limitation is, in fact, Department or state Medicaid imposed, the time has come for an aggressive effort to improve this outdated and inhibiting standard for PRS as well as all other affected Medicaid services in Pennsylvania. At a minimum, a standard of "Mental Health Professional" (already established by OMHSAS) or a CPRP (now nationally recognized) should be considered as professionals able to recommend PRS.

d) We expect that enforcement of this requirement by OMHSAS will reflect reasonableness and expediency, such as a signed statement regarding "individual would benefit from PRS", as might be denoted by a psychiatrist's sign-off on a Referral Form being sufficient.

12) PAPSRS is fundamentally uncomfortable with the language of "impairment" in **5230.31** as it seems in basic conflict with Psychiatric Rehabilitation's "strengths based" philosophy and the thinking of recognized proponents of Psychiatric Rehabilitation. For example: Bill Anthony's categorization of the Impacts of Mental Illness: impairment, dysfunction, disability and disadvantage. The inability to perform a *role* within what would be considered normal limits is the definition of *disability.* So, role functioning (in Living, Learning, Working and Social domains) can't be "impaired" which refers to the impact of bio-

physiological factors. BU might suggest that the issue is really that the person is interested in growth / progress / outcomes in one or more of the domains? Also using the term "functional assessment" for the program eligibility determination (i.e. determination of impairment) is inherently confusing to anyone familiar with the BU functional assessment. That said, and recognizing the "medical necessity requirements of CMS, some concrete questions regarding this section are:

a) Will "moderate to severe impairment" be further defined?

b) Will it suffice that this need or wish for PRS (impairment) is established in the initial assessment by *facility*/agency staff along with the individual applying for the service?

13) 5230.31 Admission Requirements: the proposed regulations have omitted a statement of possible Admission Requirements exception that was present in the Workgroup Draft Regulations.

a) The OMHSAS PRS Regulations Workgroup, representative of a broad spectrum of stakeholders, had suggested the following statement in the Admissions Requirements section which was believed to be consistent with other regulations. This statement is missing from the proposed regulations. In the absence of significant Legal or Administrative exception to this statement, it is believed that it was omitted by oversight and should be restored:

i) ***"When an individual is not a member of the Adult Priority Group, a request for eligibility for PRS services must be submitted to the Managed Care Organization (MCO) for Medical Assistance (MA) funded individuals or to the county administrator for county funded individuals, or to the Department in Fee for Service. The request must identify the reason that psychiatric rehabilitation will be beneficial to the individual."***

14) 5230.51 Staff Qualifications: The proposed regulations require staff at the PR Director and PR Specialist positions to attain the CPRP credential within two years of hire. PAPSRS strongly endorses and values the CPRP credential as an indicator of PR knowledge and competency, yet also recognizes that some competent staff without a CPRP may be in Director and Specialists positions and have held these positions for several years.

a) We continue to believe in the credential, but experience has shown that qualifying to take the exam, studying for the exam, and successfully passing the exam are often time consuming and may take more than the 2 years allotted.

i) For staff employed in PD or Specialist positions on the effective date of the new regulations and, in circumstances where efforts toward the certification is demonstrated, it is hoped that the wavier or exception process might be used to provide additional time, adequate to acquire CPRP credential.

ii) Expectations for new hires regarding CPRP credentialing after the effective date of the new regulations should be fully enforced.

15) Also **5230.51 Staff Qualifications**: The proposed regulations require PR Program Directors to have a bachelor's degree. PAPSRS is generally supportive of this requirement, but recognizes that there are currently a number of competent individuals serving as Program Directors of PRS, who do not have bachelor's degrees and we feel that their loss would neither be in the best interest of the field of Psychiatric Rehabilitation nor fair to the individual performing in a competent way.
   a) PAPSRS recommends that individuals having the title of and having adequately performed the role of Program Director in a PRS for at least one year prior to the effective date of the new regulations be excused from this requirement.
      i) Requirements of CPRP, with suggested modifications stated in 14 above shall still be applicable.
   b) Proposed staff qualifications for PRS Program Director, including expectation of bachelor's degree should remain applicable for all new hires after the effective date of the new regulations.

16) In **5230.15 Service Description**, In **sections (4), (4)(i) and (4)(ii)** especially, and other sections of the proposed regulations, there is seeming preference for PRS based on classic or traditional models or approaches and EBP's and demonstrated fidelity to these, most specifically ICCD certification for Clubhouse programs.
   a) PAPSRS recognizes subtle, and not so subtle, real and potential conflicts between the prescriptive nature of the proposed regulations and the prescriptive nature of models (including ICCD), approaches (BU) and EBP fidelities.
   b) We believe that this potential should be recognized by OMHSAS and some provision be made within future bulletins, exceptions or waiver processes to reconcile such conflicts as they are presented.

17) In regard to **5230.54 Group Services:** The proposed regulation **(2)** States: "*When a service is delivered in the community, one staff may serve a group of two to five (2:5) ratio individuals*". It is PAPSRS' understanding that the intent of the Department is that community groups may be no more than 5 individuals.
   a) The use of the word "ratio" is therefore ambiguous and misleading, so the word should be eliminated. The expression of the "ratio" as (2:5) is also inaccurate and misstated and should be eliminated.
   b) It should be noted that some ICCD/Clubhouses and other emerging practices feel that slightly larger groups in the community can still be focused and effective address rehabilitative goals.
   c) PAPSRS does support the general concept of meaningful and effective group size and accepts a limit of 5 participants based on the advice of competent authority.

18) Also in regard to **5230.54 Group Services, (c), (c)(1), (c)(2), (d) and (g)** – These sections are unnecessarily prescriptive and reflect detail unusual for regulations of this nature.

a) While the "conceptual purpose" of these sections, to assure meaningful small group experiences in the community, is understood, they inherently add time, process and documentation expectations which exceed and compound other expectations of the proposed regulations and would significantly add administrative tasks which could give rise to cumbersome, time consuming documentation and unnecessary monitoring on the part of reviewers. They also detract from the time available for the community integration experience of the participant and add demands on staff time and services.

i) The specific details are not seen as Recovery oriented or empowering.

ii) We believe that the intent for purposeful community integration experiences which are in concert with each individual's, goals, wishes and aspirations is understood and can be both demonstrated and monitored via less prescribed process and documented via requirements already in the proposed regulations.

b) In particular regard to **5230.54, (g),** while we feel this entire section is unnecessarily prescriptive, the specific reference to *"... group discussions ... to occur in the privacy of the facility"* is often impractical and not in the best interest of community integration approaches. At a minimum, it is felt that this language should be changed to "*... in a setting which preserves confidentiality.*"

19) In regard to: **5230.56,** which states: *"Staff providing services in a PRS shall complete 18 hours of training per year with 12 hours specifically focused on psychiatric rehabilitation or recovery practices, or both; A PRS facility shall assure competency of new staff by providing an additional PRS service specific orientation that includes ... Eight hours of training in the specific PRS model or approach outlined in the service description prior to new staff working independently; Six hours of face-to-face mentoring of service delivery by a supervisor for new staff before services are delivered independently."*

a) PAPSRS believes that some of the 18 hours of annual training should be allowed to be provided by the agency as "in-service" when appropriate learning objectives are documented.

b) PAPSRS believes that clarity is needed regarding *"eight hours ... specific PRS model ..."*, can this be provided by the agency vs. other formal training? Could part of this eight hours include the " six hours of face to face mentoring"?

20) In regard to: **5230.63** – *"A PRS facility shall include an entry for the day service was provided in the record of an individual ..."* PAPSRS requests that providers be allowed to chose Daily Entry formats which meet the requirements of 5230.62, but utilize an outline or check-off format with brief narrative comment, if necessary to satisfy this requirement. If chosen, this could eliminate lengthy, often repetitive narratives and maximize program time.

14-521-10

I am happy to present these comments regarding the proposed regulations for Psychiatric Rehabilitation Services (Regulation No. 14-521) on behalf of the Pennsylvania Association of Psychiatric Rehabilitation Services. The proposed regulations were the object of thorough review by the PAPSRS Board of Directors, which has representation from across the state and of many stakeholder groups. The comments offered in this letter attempt to offer the consensus thinking of this informed and diverse group. It was my intent offer the position of our Board of Directors and membership in a clear and concise manner. I understand, however, that questions could arise. If appropriate, I would be happy to address any questions regarding this material by phone (610) 565-3044 or email (papsrs@comcast.net). PAPSRS recognizes the complexity of this process and appreciates the efforts of all involved.

Sincerely,

Dan Sylvester, MSW,LSW,CPRP
Executive Director

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From:	Dan Sylvester [papsrs@comcast.net]
Sent:	Monday, November 22, 2010 11:58 AM
To:	Psych Rehab
Subject:	Comments re: Regulation No. 14-521

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Ms. Lisa McMullen:

Attached you will find an electronic copy of comments prepared on behalf of PAPSRS (Pennsylvania Association of Psychiatric Rehabilitation Services) regarding Regulation No. 14-521 -- Proposed Regulations for Psychiatric Rehabilitation Services. A hard copy of these comments is being sent to you via US Mail. Please contact me if you have any questions. Dan Sylvester
PAPSRS - Executive Director papsrs@comcast.net
(610) 565-3044