

# Regulatory Analysis Form

(Completed by Promulgating Agency)

## INDEPENDENT REGULATORY REVIEW COMMISSION

(All Comments submitted on this regulation will appear on IRRC's website)

(1) Agency

Department of Human Services

(2) Agency Number:

Identification Number: #14-539

IRRC Number:

3137

2016 FEB 11 PM 2:33

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(3) PA Code Cite: 55 Pa.Code Chapters 13, 14, 20, 2380, 2390, 2600, 2800, 3800, 4200, 4210, 4215, 4220, 4230, 4300, 4305, 4310, 6201, 6210, 6211, 6250, 6350, 6400, 6500 and 6600

(4) Short Title: Intellectual Disability Terminology Update

(5) Agency Contacts (List Telephone Number and Email Address):

Primary Contact: Julie Mochon, Policy Specialist, Office of Developmental Programs, 783-5771, [jmochon@pa.gov](mailto:jmochon@pa.gov)

Secondary Contact: Karen E. Kroh, Regulatory Management Consultant, Office of Developmental Programs, 265-7746, [c-karkroh@pa.gov](mailto:c-karkroh@pa.gov)

(6) Type of Rulemaking (check applicable box):

☐

Proposed Regulation

☐

Final Regulation

X Final Omitted Regulation

☐

Emergency Certification Regulation;

☐

Certification by the Governor

☐

Certification by the Attorney General

(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

This regulation supports Pennsylvanians with an intellectual disability by updating the language in 24 chapters of Title 55 (relating to public welfare) to replace the terms "the retarded", "retarded person", "mentally retarded" and "mental retardation" with the up-to-date and appropriate terms "intellectual disability".

(8) State the statutory authority for the regulation. Include specific statutory citation.

§§ 201(2), 211, 213, 443.1 (2) and (3), Articles IX and X of the Public Welfare Code (62 P.S. §§ 201(2), 211, 213, 443.1(2) and (3), 901-922 and 1001-1087) and sections 201(2) and (8) and 202 of the Mental Health and Intellectual Disability Act of 1966 (50 P.S. §§ 4201(2) and (8) and 4202).

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

Although this regulation is not mandated by any Federal or state law, court orders or Federal regulations, this final-omitted regulation is in conformance with Federal and state law. See the act of November 22, 2011 (P.L. 429 No. 105) and Rosa's Law (Pub L. No. 111-256).

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

Under Federal and State law, the terminology "intellectual disability" has replaced the archaic and offensive terminology "mental retardation". See the act of November 22, 2011 (P.L. 429 No. 105) and Rosa's Law (Pub. L. No. 111-256).

The regulation affects individuals with an intellectual disability, and families of individuals, who receive funded services and supports through the Office of Developmental Programs; state-operated intellectual disability centers; providers of state and federally-funded intellectual disability services and supports and facilities licensed by the Department.

This regulation was requested by and is very important to the intellectual disability self-advocacy and advocacy communities, families, providers, local government and others, as the terms "mental retardation" used in Title 55 are offensive and archaic. In July 2015, a draft of the regulation was shared with and reviewed by external stakeholders to include self-advocacy, advocacy, provider and local government organizations. External stakeholders applaud this long overdue effort to update the language in Title 55.

The benefit of this regulation is to promote respect, community integration and an array of opportunities for an individual with an intellectual disability, by using words that are positive and up-to-date in the Department's publications and communications, including its regulations. Words matter. The words we use affect how individuals are viewed and how we perceive others.

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

No, there are no provisions that are more stringent than federal standards.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

Other states have revised or plan to review their regulations to use current and appropriate language. This regulation does not affect Pennsylvania's ability to compete with other states.

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No, this regulation will not affect the regulations of the Department or another state agency.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

This regulation was requested by and is very important to the intellectual disability self-advocacy and advocacy communities, families, providers, local government and others, as the terminology "mental retardation" in Title 55 is offensive and archaic.

A draft of the regulation was shared with and reviewed by external stakeholders that included self-advocacy, advocacy, provider and local government organizations.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

The regulation affects individuals with an intellectual disability, and families of individuals, who receive funded services and supports through the Office of Developmental Programs; state-operated intellectual disability centers; providers of state and federally-funded intellectual disability services and supports and the Department's licensed facilities.

50,000 individuals with an intellectual disability receive state or federally-funded services and supports through the Office of Developmental Programs.

940 providers deliver state or federally-funded services and supports through the Office of Developmental Programs.

The affected parties are affected by a satisfaction and assurance that the words used to describe themselves, their family members and their services and supports are positive and respectful.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

No compliance is required through this update of terminology. The Department encourages local government and providers to revise their communications to use the up-to-date terminology to coincide with this regulation.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

This regulation has no financial or economic impact.

This regulation may have a social impact to encourage others to use the most appropriate language when addressing a person with a disability. The benefit of using respectful and positive language when speaking to and about others is a great benefit to society as a whole.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

There are no adverse effects of this regulation.

(19) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

There is no cost to the regulated community.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

There is no cost to local government.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

There is no cost to state government.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

There is no increase or decrease in legal, accounting or consulting paperwork as a result of this regulation.

*10-21-15*

(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years. **There is no fiscal impact anticipated.**

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Savings	\$0	\$0	\$0	\$0	\$0	\$0
<b>COSTS:</b>						
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Costs	\$0	\$0	\$0	\$0	\$0	\$0
<b>REVENUE LOSSES:</b>						
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Revenue Losses	\$0	\$0	\$0	\$0	\$0	\$0

(23a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
ID-Community Waiver Program	\$931,885,000	\$1,026,790,000	\$1,066,613,000	\$1,211,993,000
ID-Community Base Program	\$151,223,000	\$150,918,000	\$149,681,000	\$153,561,000
ID-Lansdowne Residential Services	\$340,000	\$340,000	\$340,000	\$340,000
ID-State Centers	\$107,023,000	\$120,273,000	\$132,984,000	\$139,496,000
ID-Intermediate Care Facilities	\$140,729,000	\$149,576,000	\$152,298,000	\$155,713,000

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

There is no adverse impact on small businesses.

- (a) Of the 940 providers which deliver state or federally-funded services and supports through the Office of Developmental Programs, an estimated 800 providers are small businesses with an annual revenue of less than \$15 million; however, there is no adverse impact to small businesses since this regulation updates terminology.
- (b) No reporting, recordkeeping or compliance is required by this regulation.
- (c) While no regulatory compliance is required, small businesses will be better informed about the use of appropriate and up-to-date terminology.
- (d) The regulation does not intrude or result in costs to small businesses.

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

This regulation affects individuals with disabilities by using up-to-date and appropriate language.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

An alternative provision to update the terminology in Title 55 is not available. A regulatory amendment is necessary to update the archaic terminology.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

This regulation has no impact on small businesses.

- a) The regulation uses the same updated terminology for all businesses, large and small, which serve and support individuals with an intellectual disability.
- b) There are no schedules or deadlines applicable to either large or small businesses.
- c) There are no compliance or reporting requirements applicable to either large or small businesses.
- d) There are no performance standards required by this regulation.
- e) Small businesses are not exempt from the regulation using appropriate terminology.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

Data is not the basis for this regulation.



(29) Include a schedule for review of the regulation including:

- |   |   |
|---|---|
| A. The date by which the agency must receive public comments:                               | <u>Not applicable.</u>                            |
| B. The date or dates on which public meetings or hearings will be held:                     | <u>No public meeting or hearing will be held.</u> |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | <u>Not applicable.</u>                            |
| D. The expected effective date of the final-form regulation:                                | <u>Upon publication.</u>                          |
| E. The date by which compliance with the final-form regulation will be required:            | <u>Upon publication.</u>                          |
| F. The date by which required permits, licenses or other approvals must be obtained:        | <u>Not applicable.</u>                            |

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

The Department will continue to use the most appropriate, respectful and up-to-date language in all communications about services and supports provided for individuals with a disability.



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**FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU**

**(Pursuant to Commonwealth Documents Law)**

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved  
as to form and legality.  
Attorney General

By: \_\_\_\_\_  
(Deputy Attorney General)

\_\_\_\_\_  
Date of Approval

☐ Check if applicable  
Copy not approved.  
Objections attached.

Copy below is hereby certified to be a true and correct  
copy of a document issued, prescribed or  
promulgated by:

**DEPARTMENT OF HUMAN SERVICES**

(Agency)

LEGAL COUNSEL: \_\_\_\_\_

DOCUMENT/FISCAL NOTE NO. 14-539

DATE OF ADOPTION: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: **SECRETARY OF HUMAN SERVICES**  
(Executive Officer, Chairman or Secretary)

Copy below is hereby approved as to  
Form and legality. Executive or  
Independent Agencies.

BY: \_\_\_\_\_

1/29/16  
Date of Approval

(Deputy General Counsel)  
~~(Chief Counsel, Independent Agency)~~  
(Strike inapplicable title)

☐ Check if applicable: No Attorney  
General approval or objection  
within 30 days after submission.

**NOTICE OF FINAL-OMITTED RULEMAKING WITHOUT PUBLICATION  
AS PROPOSED**

**DEPARTMENT OF HUMAN SERVICES**

**OFFICE OF DEVELOPMENTAL PROGRAMS**

[55 Pa.Code Chapters 13, 14, 20, 2380, 2390, 2600,  
2800, 3800, 4200, 4210, 4215, 4220, 4226, 4230, 4300, 4305,  
4310, 6201, 6210, 6211, 6250, 6350, 6400, 6500 and 6600]

### *Statutory Authority*

The Department of Human Services (Department), by this Order, adopts this regulation set forth in the Annex pursuant to the authority of §§ 201(2), 211, 213, 443.1 (2) and (3), Articles IX and X of the Public Welfare Code (62 P.S. §§ 201(2), 211, 213, 443.1(2) and (3), 901-922 and 1001-1087) and sections 201(2) and (8) and 202 of the Mental Health and Intellectual Disability Act of 1966 (50 P.S. §§ 4201(2) and (8) and 4202).

### *Omission of Proposed Rulemaking*

Notice of proposed rulemaking is omitted in accordance with § 204(3) of the Commonwealth Documents Law (45 P.S. § 1204(3)) and 1 Pa.Code § 7.4(3), because the Department for good cause finds that proposed rulemaking is unnecessary and that a delay in the promulgation of these amendments is contrary to the public interest. Under Federal and State law, the terminology "intellectual disability" has replaced the archaic and offensive terminology "mental retardation". See the act of November 22, 2011 (P.L. 429 No. 105) and Rosa's Law (Pub. L. No. 111-256). Further, the affected individuals with an intellectual disability, friends and family members of affected individuals, providers of services and supports for individuals with an intellectual disability and county mental health/intellectual disability programs support the use of the up-to-date and appropriate terms "intellectual disability" and "integration" to replace the archaic terms of "the retarded", "mentally retarded", "retarded person", "mental retardation" and "normalization" in Title 55 (relating to public welfare).

### *Purpose*

The purpose of this rulemaking is to support Pennsylvanians with an intellectual disability by updating the language in 24 chapters of Title 55 to replace the terms “the retarded”, “mentally retarded”, “retarded person” and “mental retardation” with the up-to-date and appropriate term “intellectual disability. The rulemaking also replaces the term “normalization” with the up-to-date and appropriate term “integration” in Chapter 6400 (relating to community homes for individuals with an intellectual disability).

### *Requirements*

Various chapters of licensing, state center, mental health/intellectual disability and intellectual disability regulations were found to use the inappropriate and outdated terminology. These amended chapters apply to state-operated intellectual disability centers, intellectual disability programs funded through the Office of Developmental Programs and facilities licensed by the Department. Amendments to Chapters 51, 4226 and 6200 are not included in this rulemaking, since rulemakings pertaining to these chapters are concurrently moving through the regulatory process.

The Department is updating the following chapters with the correct terminology of “intellectual disability”:

Chapter 13. Use of Restraints in Treating Patients/Residents.

Chapter 14. Abuse of Patients/Residents.

Chapter 20. Licensure or Approval of Facilities and Agencies.

Chapter 2380. Adult Training Facilities.

Chapter 2390. Vocational Facilities.

Chapter 2600. Personal Care Homes.

Chapter 2800. Assisted Living Residences.

Chapter 3800. Child Residential and Day Treatment Facilities.

Chapter 4200. County Board and Program Administration.

Chapter 4210. Description of Services and Service Areas.

Chapter 4215. Annual Plan and Estimate of Expenditures.

Chapter 4220. Reimbursement for Medications.

Chapter 4230. Waiver of Service.

Chapter 4300. County Mental Health and Intellectual Disability Fiscal Manual.

Chapter 4305. Liability for Community Mental Health and Intellectual Disability  
Community Services.

Chapter 4310. Client Liability-State MH/ID Facilities.

Chapter 6201. County Intellectual Disability Services.

Chapter 6210. Participation Requirements for the Intermediate Care Facilities for the  
Intellectual Disability Program.

Chapter 6211. Allowable Costs Reimbursement for Non-state Operated Intermediate  
Care Facilities for Individuals with an Intellectual Disability.

Chapter 6250. Commitment and Admission Procedures for Individuals with an Intellectual Disability.

Chapter 6350. Family Resource Services.

Chapter 6400. Community Homes for Individuals with an Intellectual Disability.

Chapter 6500. Family Living Homes

Chapter 6600. Intermediate Care Facilities for Individuals with an Intellectual Disability.

*Affected Individuals and Organizations*

This rulemaking affects individuals with an intellectual disability, and families of individuals, who receive funded services and supports through the Office of Developmental Programs; state-operated intellectual disability centers; providers of state and federally-funded intellectual disability services and supports and facilities licensed by the Department.

This rulemaking was requested by and is very important to the intellectual disability self-advocacy and advocacy communities, families, providers, local government and others, as the terms “the retarded”, “mentally retarded”, “retarded person”, “mental retardation” and “normalization” are offensive and archaic. In July 2015, a draft of the rulemaking was shared with and reviewed by external stakeholders that included self-advocacy, advocacy, provider and local government organizations. External stakeholders applaud this long overdue effort to update the language in Title 55.



### *Accomplishments and Benefits*

This rulemaking promotes respect, community integration and an array of opportunities for an individual with an intellectual disability, by using words that are positive and up-to-date.

### *Fiscal Impact*

There is no fiscal impact for individuals, families, advocates, providers, local government or state government.

### *Paperwork Requirements*

There is no increase or decrease in paperwork requirements.

### *Public Comment*

Although this regulation is being adopted without publication as proposed rulemaking, interested persons are invited to submit written comments, suggestions or objections regarding this rulemaking to the Department at the following address: Julie Mochon, Human Service Program Specialist Supervisor, Office of Developmental Programs, Room 502 Health and Welfare Building, 625 Forster Street, Harrisburg, Pennsylvania 17120 or through email at [jmochon@pa.gov](mailto:jmochon@pa.gov). Comments will be reviewed and considered for any subsequent revision of the regulation.

Persons with a disability who require an auxiliary aid or service may submit comments by using the AT&T Relay Service at 1-800-654-5984 (TDD users) or 1-800-654-5988 (voice users).

*Regulatory Review Act*

Under § 5.1(c) of the Regulatory Review Act (71 P.S. § 745.5a(c)), on FEB 11 2016, the Department submitted a copy of this regulation, with proposed rulemaking omitted, to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Human Services and the Senate Committee on Public Health and Welfare. On the same date, the regulation was submitted to the Office of the Attorney General for review and approval pursuant to the Commonwealth Attorney's Act.

In accordance with § 5.1(j.1) and (j.2) of the Regulatory Review Act, this regulation was [deemed] approved by the Committees on \_\_\_\_\_. The IRRC met on \_\_\_\_\_ and approved the regulation.

In addition to submitting the final-omitted rulemaking, the Department has provided the IRRC and the Committees with a copy of a Regulatory Analysis Form prepared by the Department. A copy of this form is available to the public upon request.

*Order*

The Department finds:

- (a) Notice of proposed rulemaking is omitted in accordance with § 204(3) of the Commonwealth Document's Law (45 P.S. § 1204(3) and 1 Pa.Code § 7.4(3) because the Department for good cause finds that proposed rulemaking is



unnecessary and that a delay in the promulgation of these amendments is contrary to the public interest. The affected individuals with an intellectual disability, friends and family members of affected individuals, providers of services and supports for individuals with an intellectual disability and county mental health/intellectual disability programs support the use of the up-to-date and appropriate term "intellectual disability."

- (b) That the adoption of this regulation in the manner provided by this Order is necessary and appropriate for the administration and enforcement of the Public Welfare Code.

The Department acting pursuant to the authority of §§ 201(2), 211, 213, 443.1 (2) and (3), Articles IX and X of the Public Welfare Code (62 P.S. §§ 201(2), 211, 213, 443.1(2) and (3), 901-922 and 1001-1087) and sections 201(2) and (8) and 202 of the Mental Health and Intellectual Disability Act of 1966 (50 P.S. 4201(2) and (8) and 4202) orders:

- (a) The regulation of the Department is amended to read as set forth in the Annex of this Order.
- (b) The Secretary of the Department shall submit this Order and the Annex to the Offices of General Counsel and Attorney General for approval as to legality and form as required by law.

(c) The Secretary of the Department shall certify and deposit the Order and the Annex with the Legislative Reference Bureau as required by law.

(d) This Order shall take effect upon publication in the *Pennsylvania Bulletin*.

## **ANNEX A**

### **TITLE 55. PUBLIC WELFARE**

#### **PART I. DEPARTMENT OF HUMAN SERVICES**

##### **SUBPART B. RIGHTS**

#### **CHAPTER 13. USE OF RESTRAINTS IN TREATING PATIENTS/RESIDENTS**

##### **§ 13.1. Scope.**

This chapter is applicable in institutions operated by the Department, regardless of the type of facility, patient/resident composition, or services covered. Facilities covered include Youth Development Centers, Youth Forestry Camps, Restoration Centers, State general hospitals and State-operated institutions for [the mentally ill or mentally retarded] individuals with a mental illness or an intellectual disability.

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##### **§ 13.8. Seclusion.**

###### **(a) Definition.**

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###### **(1) Seclusion.**

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(iv) Seclusion shall be used only under the following conditions:

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(D) Seclusion as defined in this paragraph may not be employed in a State center for [the retarded] individuals with an intellectual disability.

(2) *Exclusion.* Within [mental health/mental retardation] mental health/intellectual disability facilities the removing of the patient/resident from his immediate environment and restricting him to another area. Exclusion shall only be employed when it is clearly documented that another less restrictive method has been unsuccessful in controlling the unacceptable behavior. Exclusion shall be limited and documented as a therapeutic technique in the resident's individual treatment plan. In mental health facilities children under the age of 14 requiring seclusion or exclusion shall be continuously monitored within or just outside the exclusion area by mental health personnel, and the room may not be locked or otherwise secured. Soft inanimate objects shall be made available to the patient to permit the venting of aggression.

(b) *Procedures.*

(1) In mental health facilities if a patient/resident in voluntary treatment requires seclusion, will not consent to such and requests to be discharged, this request shall be granted unless the procedures and standards of section 302 of the Mental Health Procedures Act (50 P. S. § 7302) regarding emergency involuntary treatment and § 5100.76 (relating to notice of withdrawal) are followed. Similarly, the procedures of section 405 of the Mental Health and [Mental Retardation] Intellectual Disability Act of

1966 (50 P. S. § 4405) shall be followed for [mentally retarded] persons with an intellectual disability who have been voluntarily admitted, require seclusion, and request to be discharged.

(2) In the case of mental health facilities, authority for seclusion of a patient/resident rests with the Director or his designee. In [mental retardation] intellectual disability facilities, authority for exclusion rests with the qualified [mental retardation] intellectual disability professional. In the case of Youth Development Centers, Youth Forestry Camps and all other Departmental institutions authority for seclusion rests with the Superintendent/Assistant Superintendent. Normally, written orders shall precede the placement of a patient/resident in seclusion or exclusion. In emergencies, telephone orders may be accepted, but an order shall be properly countersigned within the time specified by the institution. In no case, however, shall this period exceed 24 hours.

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(4) In [mental health/mental retardation] mental health/intellectual disability facilities, telephone orders are not acceptable for continued seclusion or exclusion. The patient/resident shall be seen by a physician within 24 hours, and the order shall be rewritten and supported by a progress note. In Youth Development Centers and Youth Forestry Camps, the resident/patient must be seen by the Superintendent/Assistant Superintendent who will assess the resident's/patient's needs and seek professional consultation if indicated.

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(7) In [mental health/mental retardation] mental health/intellectual disability facilities, if the nursing supervisor/designated program specialist, after visiting the patient/resident, deems seclusion or exclusion necessary, the attending physician or his delegate shall be notified immediately. In Youth Development Center or Youth Forestry Camp facilities, if the designated program specialist, after visiting the patient/resident, deems seclusion necessary, the Superintendent/Assistant Superintendent shall be notified immediately.

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## CHAPTER 14. ABUSE OF PATIENTS/RESIDENTS

### § 14.1. Scope.

(a) *Applicability.* This chapter is applicable in institutions operated by the Department, regardless of the type of facility, patient/resident composition, or services provided. Facilities covered include Youth Development Centers, Youth Forestry Camps, Restoration Centers, State general hospitals and State-operated institutions for [the mentally ill and mentally retarded] individuals with a mental illness or an intellectual disability. In those institutions serving children covered by the Child Protective Services Law (11 P. S. § § 2201—2224) the facility shall also comply with the Departmental reporting procedures applicable to this act and the procedures of § 7084, Administrative Manual, relating to management of incidents and deaths. Nothing in this chapter may be construed to limit or affect an employee's existing appeal rights under Civil Service statutes or collective bargaining agreements.

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## SUBPART C. LICENSING/APPROVAL

### CHAPTER 20. LICENSURE OR APPROVAL OF FACILITIES AND AGENCIES

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#### FEEES

\*\*\*\*\*

#### § 20.42. Amount of fees.

(a) The following fees shall be paid for a regular certificate of compliance:

<i>Type of Facility</i>	<i>Profit Public or Nonprofit</i>
Adult Day Care Center	\$15 0
Maternity Home	\$15 0
Community Residential [Mental Retardation] <u>Intellectual Disability</u> Facility or Agency	\$50 0
Psychiatric Clinic	\$50 0
Partial Hospitalization Programs	\$50 0
Private Psychiatric Hospital	\$50 0
Vocational Facility Serving Primarily <u>Individuals with</u> Mental [Health] <u>Illness</u> , [Mental Retardation] <u>an Intellectual Disability</u> [Mental Health and	\$50 0



Mental Retardation Clients] or both

\*\*\*\*\*

## **PART IV. ADULT SERVICES MANUAL**

### **SUBPART D. NONRESIDENTIAL AGENCIES/FACILITIES/SERVICES**

#### **CHAPTER 2380. ADULT TRAINING FACILITIES**

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##### **§ 2380.2. Applicability.**

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(d) This chapter applies to adult training facilities operated on the grounds of or in a community residential rehabilitation mental health facility or a community home for individuals with [mental retardation] an intellectual disability if permitted in accordance with Chapter 6400 (relating to community homes for individuals with [mental retardation] an intellectual disability).

(e) This chapter applies to adult training facilities operated on the grounds of or in a non-State operated intermediate care facility for [the mentally retarded] individuals with an intellectual disability, unless it is medically necessary or in the individual's best interest to remain at home.

(f) This chapter does not apply to the following:

\*\*\*\*\*

(7) Community homes for individuals with [mental retardation] an intellectual disability licensed in accordance with Chapter 6400 and intermediate care facilities for [the mentally retarded] individuals with an intellectual disability licensed in accordance with Chapter 6600 (relating to intermediate care facilities for [the mentally retarded] individuals with an intellectual disability) that provide day services in the same building in which the individuals live to individuals who remain at home because they are medically unable to attend a community day program or because it is in the individual's best interest to remain at the home.

\*\*\*\*\*

### **§ 2380.3. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

\*\*\*\*\*

*Individual*—An adult with disabilities who receives care in an adult training facility and who has developmental needs [which] that require assistance to meet personal needs and to perform basic daily activities. Examples of adults with disabilities include adults who exhibit one or more of the following:

\*\*\*\*\*

(iv) [Mental retardation] An intellectual disability.

\*\*\*\*\*

**§ 2380.17. Reporting of unusual incidents.**

\*\*\*\*\*

(c) The facility shall orally notify, within 24 hours after abuse or suspected abuse of an individual or an incident requiring the services of a fire department or law enforcement agency occurs:

(1) The county mental health and [mental retardation] intellectual disability program of the county in which the facility is located if the individual involved in the unusual incident has mental illness [or mental retardation] an intellectual disability.

\*\*\*\*\*

(3) The appropriate regional office of [mental retardation] the Department.

(d) The facility shall initiate an investigation of the unusual incident and complete and send copies of an unusual incident report on a form specified by the Department, within 72 hours after an unusual incident occurs, to:

(1) The county mental health and [mental retardation] intellectual disability program of the county in which the facility is located if the individual involved in the unusual incident has mental illness or [mental retardation] an intellectual disability.

\*\*\*\*\*

(3) The appropriate regional office of [mental retardation] the Department.

(e) At the conclusion of the investigation the facility shall send a copy of the final unusual incident report to:

(1) The county mental health and [mental retardation] intellectual disability program of the county in which the facility is located if the individual involved in the unusual incident has mental illness or [mental retardation] or an intellectual disability.

\*\*\*\*\*

(3) The appropriate regional office of [mental retardation] the Department.

\*\*\*\*\*

#### **§ 2380.18. Reporting of deaths.**

(a) The facility shall complete and send copies of a death report on a form specified by the Department, within 24 hours after a death of an individual that occurs at the facility or while under the supervision of the facility to:

(1) The county mental health and [mental retardation] intellectual disability program of the county in which the facility is located if the individual had mental illness or [mental retardation] an intellectual disability.

\*\*\*\*\*

(3) The regional office of [mental retardation] the Department.

(b) The facility shall investigate and orally notify, within 24 hours after an unusual or unexpected death occurs:

(1) The county mental health and [mental retardation] intellectual disability program of the county in which the facility is located if the individual had mental illness or [mental retardation] an intellectual disability.

\*\*\*\*\*

(3) The regional office of [mental retardation] the Department.

\*\*\*\*\*

**§ 2380.182. Development, annual update and revision of the ISP.**

\*\*\*\*\*

(b) When an individual is not receiving services through an SCO and does not reside in a home licensed under Chapter 6400 or 6500 (relating to community homes for individuals with [mental retardation] an intellectual disability; and family living homes), the adult training facility program specialist shall be the plan lead when one of the following applies:

\*\*\*\*\*

## CHAPTER 2390. VOCATIONAL FACILITIES

\*\*\*\*\*

### § 2390.5. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

\*\*\*\*\*

*Disabled adult*—

\*\*\*\*\*

(ii) The term includes persons who exhibit any of the following characteristics:

\*\*\*\*\*

(D) [Mental retardation] An intellectual disability.

\*\*\*\*\*

*Interdisciplinary team*—A group of persons representing one or more service areas relevant to identifying a client's needs, including at a minimum the county casemanager if the client is funded through the county mental health and [mental retardation] intellectual disability program, the client and the program specialist.

\*\*\*\*\*

**§ 2390.18. Unusual incident report.**

(a) An unusual incident report shall be completed by the facility on a form specified by the Department for a serious event, including death of a client, injury or illness of a client requiring inpatient hospitalization or a fire requiring the services of a fire department.

The facility shall send copies of the report to the Regional Office of [Mental Retardation] the Department and the funding agency within 24 hours after the event occurs. A copy of unusual incident reports shall be kept on file by the facility.

(b) If an unusual incident occurs during a weekend, the Regional Office of [Mental Retardation] the Department and the funding agency shall be notified within 24 hours after the event occurs and the unusual incident report shall be sent on the first business day following the event.

**§ 2390.19. Abuse.**

\*\*\*\*\*

(c) The chief executive officer or designee shall investigate reports of abuse and prepare and send a report to the Regional Office of [Mental Retardation] the Department and the funding agency within 24 hours of the initial report. If the initial report occurs during a weekend, the Regional Office of [Mental Retardation] of the Department and the funding agency shall be notified within 24 hours after the initial report and the abuse investigation report shall be sent on the first business day following the initial report. The report shall either support or deny the allegation and



make recommendations for appropriate action. The chief executive officer or designee shall implement changes immediately to prevent abuse in the future.

\*\*\*\*\*

#### **§ 2390.152. Development, annual update and revision of the ISP.**

\*\*\*\*\*

(b) When a client is not receiving services through an SCO and is not receiving services in a facility or home licensed under Chapters 2380, 6400 or 6500 (relating to adult training facilities; community homes for individuals with [mental retardation] an intellectual disability; and family living homes), the vocational facility program specialist shall be the plan lead.

\*\*\*\*\*

### **SUBPART E. RESIDENTIAL AGENCIES/FACILITIES/SERVICES**

#### **CHAPTER 2600. PERSONAL CARE HOMES**

\*\*\*\*\*

#### **§ 2600.4. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

\*\*\*\*\*

*Appropriate assessment agency*—An organization serving adults who are older or adults with disabilities, such as a county [mental health/mental retardation] mental health/intellectual disability agency, a drug and alcohol agency, an area agency on aging or another human service agency or an individual in an occupation maintaining contact with adults who are older and adults with disabilities, such as medicine, nursing or rehabilitative therapies.

\*\*\*\*\*

**§ 2600.64. Administrator training and orientation.**

\*\*\*\*\*

(b) The standardized Department-approved administrator training course specified in subsection (a)(2) shall include the following:

\*\*\*\*\*

(11) Care for residents with [mental retardation] an intellectual disability.

\*\*\*\*\*

**§ 2600.65. Direct care staff person training and orientation.**

\*\*\*\*\*

(d) Direct care staff persons hired after April 24, 2006, may not provide unsupervised ADL services until completion of the following:

\*\*\*\*\*

(3) Initial direct care staff person training to include the following:

\*\*\*\*\*

(iv) Care of residents with dementia, mental illness, cognitive impairments, [mental retardation] an intellectual disability and other mental disabilities.

\*\*\*\*\*

(f) Training topics for the annual training for direct care staff persons shall include the following:

\*\*\*\*\*

(7) Care for residents with mental illness or [mental retardation] an intellectual disability, or both, if the population is served in the home.

\*\*\*\*\*

#### **§ 2600.222. Community social services.**

Residents shall be encouraged and assisted in the access to and use of social services in the community which may benefit the resident, including a county mental health and

[mental retardation] intellectual disability program, a drug and alcohol program, a senior citizens center, an area agency on aging or a home health care agency.

\*\*\*\*\*

**§ 2600.224. Preadmission screening.**

\*\*\*\*\*

(c) The preadmission screening shall be completed by the administrator or designee. If the resident is referred by a State-operated facility, a county mental health and [mental retardation] intellectual disability program, a drug and alcohol program or an area agency on aging, a representative of the referral agent may complete the preadmission screening.

\*\*\*\*\*

**§ 2600.228. Notification of termination.**

\*\*\*\*\*

(h) The only grounds for discharge or transfer of a resident from a home are the following conditions:

\*\*\*\*\*

(3) If a home determines that a resident's functional level has advanced or declined so that the resident's needs cannot be met in the home. If a resident or the resident's

designated person disagrees with the home's decision to discharge or transfer, consultation with an appropriate assessment agency or the resident's physician shall be made to determine if the resident needs a higher level of care. A plan for other placement shall be made as soon as possible by the administrator in conjunction with the resident and the resident's designated person, if any. If assistance with relocation is needed, the administrator shall contact appropriate local agencies, such as the area agency on aging, county [mental health/mental retardation] mental health/intellectual disability program or drug and alcohol program, for assistance. The administrator shall also contact the Department's personal care home regional office.

\*\*\*\*\*

## CHAPTER 2800. ASSISTED LIVING RESIDENCES

\*\*\*\*\*

### § 2800.4. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

\*\*\*\*\*

*Appropriate assessment agency*—An organization serving adults who are older or adults with disabilities, such as a county [mental health/mental retardation], mental health/intellectual disability agency, a drug and alcohol agency, an area agency on aging or another human service agency or an individual in an occupation maintaining

contact with adults who are older and adults with disabilities, such as medicine, nursing or rehabilitative therapies.

\*\*\*\*\*

*Health care or human services field*—Includes the following:

\*\*\*\*\*

(iv) [Mental health/mental retardation] Mental health/intellectual disability services.

\*\*\*\*\*

**§ 2800.64. Administrator training and orientation.**

\*\*\*\*\*

(b) The standardized Department-approved administrator training course specified in subsection (a)(2) must include the following:

\*\*\*\*\*

(11) Care for residents with [mental retardation] an intellectual disability.

\*\*\*\*\*

**§ 2800.65. Staff orientation and direct care staff person training and orientation.**

\*\*\*\*\*

(g) Direct care staff persons may not provide unsupervised assisted living services until completion of 18 hours of training in the following areas:

\*\*\*\*\*

(3) Initial direct care staff person training to include the following:

\*\*\*\*\*

(iv) Care of residents with mental illness, neurological impairments, [mental retardation] an intellectual disability and other mental disabilities.

\*\*\*\*\*

(i) Training topics for the annual training for direct care staff persons must include the following:

\*\*\*\*\*

(7) Care for residents with mental illness or [mental retardation] an intellectual disability, or both, if the population is served in the residence.

\*\*\*\*\*



**§ 2800.222. Community social services.**

Residents shall be encouraged and assisted in the access to and use of social services in the community which may benefit the resident, including a county mental health and [mental retardation] intellectual disability program, a drug and alcohol program, a senior citizens center, an area agency on aging or a home health care agency.

\*\*\*\*\*

**§ 2800.228. Transfer and discharge.**

\*\*\*\*\*

(h) The only grounds for transfer or discharge of a resident from a residence are for the following conditions:

\*\*\*\*\*

(3) If a residence determines that a resident's functional level has advanced or declined so that the resident's needs cannot be met in the residence under § 2800.229 (relating to excludable conditions; exceptions) or within the scope of licensure for a residence. In that case, the residence shall notify the resident and the resident's designated person. The residence shall provide justification for the residence's determination that the needs of the resident cannot be met. In the event that there is no disagreement related to the transfer or discharge, a plan for other placement shall be made as soon as possible by the administrator in conjunction with the resident and the resident's designated person, if any. If assistance with relocation is needed, the administrator shall contact appropriate

local agencies, such as the area agency on aging, county [mental health/mental retardation] mental health/intellectual disability program or drug and alcohol program, for assistance. The administrator shall also contact the Department.

\*\*\*\*\*

## **PART V. CHILDREN, YOUTH AND FAMILIES MANUAL**

### **SUBPART E. RESIDENTIAL AGENCIES/FACILITIES/SERVICES**

#### **ARTICLE I. LICENSING/APPROVAL**

#### **CHAPTER 3800. CHILD RESIDENTIAL AND DAY TREATMENT FACILITIES**

\*\*\*\*\*

##### **§ 3800.3. Exemptions.**

This chapter does not apply to the following:

\*\*\*\*\*

(6) Family living homes for children with [mental retardation] an intellectual disability [which] that are licensed under Chapter 6500 (relating to family living homes).

(7) Community homes for individuals with [mental retardation] an intellectual disability that provide care to both children and adults in the same facility and that are licensed

under Chapter 6400 (relating to community homes for individuals with [mental retardation] an intellectual disability).

\*\*\*\*\*

#### **§ 3800.5. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Child*—An individual who meets one of the following conditions:

\*\*\*\*\*

(iv) Has [mental retardation] an intellectual disability, a mental illness or a serious emotional disturbance, with a transfer plan to move to an adult setting by 21 years of age.

\*\*\*\*\*

#### **§ 3800.20. Confidentiality of records.**

(a) The facility shall comply with the following statutes and regulations relating to confidentiality of records, to the extent applicable:

\*\*\*\*\*

(4) Section 602(d) of the Mental Health and [Mental Retardation] Intellectual Disability Act (50 P. S. § 4602(d)).

\*\*\*\*\*

**3800.56. Exceptions for staff qualifications.**

\*\*\*\*\*

(b) For facilities previously certified under Chapter 5310 or 6400 (relating to community residential rehabilitation services for the mentally ill; and community homes for individuals with [mental retardation] an intellectual disability), the age requirements specified in § 3800.55(h) (relating to child care worker) do not apply to staff persons hired, or counted in the worker to child ratio, prior to October 26, 1999.

\*\*\*\*\*

**PART VI. [MENTAL HEALTH/MENTAL RETARDATION] MENTAL  
HEALTH/INTELLECTUAL DISABILITY MANUAL**

**SUBPART C. ADMINISTRATION AND FISCAL MANAGEMENT**

**CHAPTER 4200. COUNTY BOARD AND PROGRAM ADMINISTRATION**

#### **§ 4200.1. Purpose.**

The purpose of this chapter is to specify requirements for the county mental health and [mental retardation] intellectual disability board and the county mental health and [mental retardation] intellectual disability administrator.

#### **§ 4200.2. Applicability.**

This chapter applies to county mental health/[mental retardation (MH/MR)] intellectual disability (MH/ID) programs.

#### **§ 4200.3. Legal base.**

The legal authority for this chapter is section 201(2) of the Mental Health and [Mental Retardation] Intellectual Disability Act of 1966 (50 P. S. § 4201(2)).

#### **§ 4200.4. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Act*—The Mental Health and [Mental Retardation] Intellectual Disability Act of 1966 (50 P. S. §§ 4101—4704).

*Administrator*—The county mental health and [mental retardation] intellectual disability administrator appointed by the local authorities.

*Board*—The county mental health and [mental retardation] intellectual disability board appointed by the local authorities.

\*\*\*\*\*

*Facility*—A mental health establishment, hospital, clinic, institution, center, day care center or other organizational unit, or part thereof, which is devoted primarily to the diagnosis, treatment, care, rehabilitation or detention of [mentally disabled persons] individuals with a mental disability.

\*\*\*\*\*

*Intellectual disability*—Subaverage general intellectual functioning which originates during the developmental period and is associated with impairment of maturation, learning or social adjustment.

\*\*\*\*\*

*Mental disability*—A mental illness, mental impairment, [mental retardation] intellectual disability, or mental deficiency, which so lessens the capacity of a person to use his customary self-control, judgment and discretion in the conduct of his affairs and social relations as to make it necessary or advisable for him to be under care as provided in the act. The term includes conditions and terms heretofore defined as "mental retardation", "insanity," "unsoundness of mind," "lunacy," "mental disease," "mental disorder," "feeble-minded," "moron," "idiot" and "imbecile." The term shall not include

senility, unless mental illness or [mental retardation] intellectual disability is superimposed.

*[Mental retardation—Subaverage general intellectual functioning which originates during the developmental period and is associated with impairment of maturation, learning or social adjustment.]*

\*\*\*\*\*

*Program—A mental health and [mental retardation] intellectual disability program established by the local authorities and includes a complex of services providing a continuum of care in the community for the mentally disabled.*

\*\*\*\*\*

#### **§ 4200.11. Single county board.**

Except in counties of the first class where the board will be appointed, and members will hold office under the provisions of the city charter, the local authorities of a county shall appoint a board which must consist of 13 resident members constituted as follows:

\*\*\*\*\*

(3) There shall be appropriate representation drawn from the following groups:

\*\*\*\*\*

(iii) Local citizens' organizations active in the field of [mental retardation] intellectual disability.

\*\*\*\*\*

#### **§ 4200.24. Powers and duties.**

The board shall have the power and its duty shall be:

- (1) To review and evaluate mental health and [mental retardation] intellectual disability needs, services, facilities, and special problems in relation to the local health and welfare needs, services and programs.

\*\*\*\*\*

- (4) To make recommendations to the local authorities regarding the program and other matters relating to mental health and [mental retardation] intellectual disability services in the county, including purchase of service, contracts and funds required to implement the program.

\*\*\*\*\*

#### **§ 4200.32. Powers and duties.**

The administrator shall have the power and his duty shall be:

\*\*\*\*\*



(2) To insure that mental health and [mental retardation] intellectual disability services required by this act are available.

\*\*\*\*\*

(10) To analyze and evaluate mental health and [mental retardation] intellectual disability needs and services in the county and recommend improvements to the board and local authorities, conduct research studies and take steps and adopt measures as are necessary for the proper discharge of his duties.

\*\*\*\*\*

#### **§ 4200.33. Qualifications.**

The minimum requirements for the position of the administrator shall be 5 years' progressively responsible experience in fields as medicine, clinical psychology, social work, sociology, nursing, public health, education, hospital administration or public administration including 3 years' experience in the planning, development or administration of mental health or [mental retardation] intellectual disability services, and a bachelor's degree from an accredited college or university, supplemented by graduate study to the level of a master's degree. Appropriate experience may be substituted for the required graduate study on a year for year basis.

\*\*\*\*\*

## CHAPTER 4210. DESCRIPTION OF SERVICES AND SERVICE AREAS

### § 4210.1. Purpose.

This chapter specifies the range of services that must be provided or arranged by the county [Mental Health/Mental Retardation (MH/MR)] Mental Health/Intellectual Disability (MH/ID) Program.

### § 4210.2. Applicability.

This chapter applies to county [Mental Health/Mental Retardation (MH/MR)] Mental Health/Intellectual Disability (MH/ID) Programs.

\*\*\*\*\*

### § 4210.4. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Act*—The Mental Health and [Mental Retardation] Intellectual Disability Act of 1966 (50 P. S. § § 4101—4704).

\*\*\*\*\*

*Catchment area*—A geographical territory of a city, county or combination of counties which has a minimum population of 75,000 and a maximum population of 200,000 and

in which a full range of mental health and [mental retardation] intellectual disability services is available.

\*\*\*\*\*

*[Mental health/mental retardation (MH/MR)] Mental health/intellectual disability (MH/ID) establishment*—Premises or parts thereof, private or public, for the care of individuals who require care because of mental illness, [mental retardation,] an intellectual disability or inebriety. The term shall not include the private home of a person who is rendering care to a relative.

#### **§ 4210.5. General purpose and principles.**

The purpose of the act is to make it possible for every person with a mental disability to receive the kind of treatment he needs, when and where he needs it. The act requires that a range of services be available to persons [who are mentally ill or mentally retarded] with a mental illness or an intellectual disability so that they will receive a comprehensive treatment program through a continuum of care in their own communities and, whenever possible, while they remain in their own homes.

#### **§ 4210.6. Scope of the program.**

(a) The minimum services to be made available by counties are specified in the act. These services may be provided outside the county program by the Department if a waiver has been granted under section 508 of the act (50 P. S. § 4508). These mental health and [mental retardation] intellectual disability services must be available to

persons of any age with a mental disability. Mental illness, mental impairment, [mental retardation,] intellectual disability or mental deficiency is a mental disability if it so lessens the capacity of a person to use customary self-control, judgment and discretion in the conduct of his affairs and social relations as to make it necessary or advisable for him to receive mental health or [mental retardation] intellectual disability services.

(b) The services of the county program shall consist of services to:

\*\*\*\*\*

(e) For the program to be effective, not only are services to patients necessary; also essential are consultation to welfare, probation, court, health, school, and other agencies as well as specifically those organizations whose membership represents the low income consumer community to help them to:

\*\*\*\*\*

(3) Differentiate their services from those of specialized mental health or [mental retardation] intellectual disability facilities and to provide their agency services to persons with a mental disability as freely as to other members of the community.

(4) Be aware of the mental health and [mental retardation] intellectual disability implications of their programs.

**§ 4210.11. Community mental health and [mental retardation] intellectual disability centers.**

For that portion of a county served by a community mental health or [mental retardation] intellectual disability center, the local authorities shall contract with them for the services specified in the act, to be made available by counties, which the center can provide. If the local authorities do not wish to contract with an existing center on the grounds that its operations are inconsistent with the county program, the annual plan must substantiate the allegations in detail.

**§ 4210.12. Court committed patients.**

Regulations and programs pertaining to intake, transfer, leave of absence and discharge of patients are subject to specific court orders relating to individual court committed patients under the provisions of Article IV of the act (50 P. S. § § 4401—4426). It is the responsibility of the administrator to designate appropriate mental health and [mental retardation] intellectual disability facilities to which the court may commit patients. The designations may be made by way of prior blanket notification to the court or on an ad hoc basis.

\*\*\*\*\*

**§ 4210.26. Methods of providing base service units.**

(a) To the extent that a community mental health or [mental retardation] intellectual disability center can staff a base service unit, the local authorities shall contract with it to

carry out the responsibilities and provide the functions of the base service unit in the manner determined by the administrator under the same conditions as described for services in § 4210.11 (relating to community mental health and [mental retardation] intellectual disability centers). To the extent that a center cannot fully staff a base service unit, the local authorities shall contract with the center for those services which it can furnish and, in the same contract, with other persons or facilities as necessary and appropriate to complete the staffing of a base service unit.

\*\*\*\*\*

**§ 4210.32. Where services may be provided.**

Short term inpatient services may be furnished by mental health/[mental retardation (MH/MR)] intellectual disability (MH/ID) establishments by the Department to give short term inpatient care, or by State general hospitals approved to furnish such services.

\*\*\*\*\*

**§ 4210.42. Where services may be provided.**

Emergency services shall be provided by a community mental health or [mental retardation] intellectual disability center where feasible or by other licensed or approved facilities with whom the local authorities may contract to provide these services.

Comprehensive community-wide 24 hour a day emergency services may be directly operated by the Administrator.

\*\*\*\*\*

**§ 4210.51. Description.**

Outpatient services consist of the following: diagnosis, evaluation and treatment of persons with a mental disability who live outside of a mental health or [mental retardation] intellectual disability institution while receiving services. This includes working with the patient, his family and significant other persons, utilizing such personnel and modalities as are appropriate to the needs of the patient. As one of the services in the continuum of care established by the county program, outpatient services may precede or follow inpatient care for some individuals and for others may continue while they receive rehabilitative services including sheltered workshop or training services.

**§ 4210.52. Where services may be provided.**

Outpatient services may be furnished under the county program by the base service unit, by community mental health and [mental retardation centers] intellectual disability providers, by community clinics or by clinics conducted by hospitals or by institutions for persons with a mental disability. Facilities providing outpatient services must be licensed as [mental health/mental retardation (MH/MR)] mental health/intellectual disability (MH/ID) establishments to give outpatient services or if operated by the State, meet the standards for these services.

\*\*\*\*\*

**§ 4210.62. Where services may be provided.**

Partial hospitalization services may be furnished by [mental health/mental retardation (MH/MR)] mental health/intellectual disability (MH/ID) establishments licensed by the Department to give partial hospitalization care, or by State general hospitals approved to furnish services.

\*\*\*\*\*

**§ 4210.71. Description.**

(a) Rehabilitative and training services are ancillary to mental health and [mental retardation] intellectual disability care provided on an inpatient or outpatient basis.

\*\*\*\*\*

**INTERIM CARE OF [PERSONS WHO ARE MENTALLY RETARDED] INDIVIDUALS  
WITH AN INTELLECTUAL DISABILITY**

**§ 4210.91. Description.**

(a) All of the patient services described previously shall be available to persons [who are mentally retarded] with an intellectual disability. In addition, interim care is exclusively for those persons [who are mentally retarded] with an intellectual disability.

(b) Inpatient care of persons [who are mentally retarded] with an intellectual disability is the responsibility of State operated institutions. The final determination as to whether a person is in need of inpatient care is the responsibility of the Department. When the Department determines that a person is eligible for care in a State operated facility, but



that there is no room for him at the time of that determination, the Department will place the person on a waiting list. Interim care is intended for a person who, having been removed from his home, is on a waiting list.

**§ 4210.92. Where interim care may be provided.**

The Department will approve interim care placement in an appropriate licensed [mental health/mental retardation] mental health/intellectual disability establishment. Placements may be made in institutions similarly licensed by neighboring states when the placement brings services closer to the person's home and when equally appropriate facilities are not available in this Commonwealth.

\*\*\*\*\*

**§ 4210.93. Application to State institution.**

When the base service unit determines in a case that a person appears to be in need of inpatient care for [the retarded] individuals with an intellectual disability it shall forward a completed Preliminary Application, [MR]ID-71, to the appropriate State school and hospital.

\*\*\*\*\*

**§ 4210.101. Services provided by a base service unit.**

(a) All intake into the county program shall be through the base service unit. Within 15 days of the initial interview, if the client is found in need of services from the county

program, the Intake and Proposed Service Plan, Form [MH/MR] MH/ID 10, is completed and forwarded in two copies to the administrator.

\*\*\*\*\*

(c) If service is to be provided by the base service unit, the Intake and Proposed Service Plan, Form [MH/MR] MH/ID 10, serves only to inform the administrator that intake has taken place and what is planned for the patient. No additional approval is necessary in order for the base service unit to proceed with its proposed service plan. In addition this form provides the basic information necessary for the patient service accountability system described in § 4210.121 (relating to patient service accountability system).

(d) If the recommendation of the base service unit on Form [MH/MR] MH/ID 10 is for a service to be provided by a facility already under contract to the local authorities, the base service unit shall make arrangements directly with the facility to provide the services required by the patient.

(e) If the recommendation of the base service unit on Form [MH/MR] MH/ID 10 is to arrange for supplemental services, the administrator uses Form [MH/MR] MH/ID 10 as his basis for issuing an Authorization for Service, Form [MH/MR] MH/ID 11. This authorization for service shall constitute a contract as described in § 4210.26(c) (relating to methods of providing base service units).

\*\*\*\*\*

(g) If any portion of the cost of the patient's care under the proposed service plan is to be paid from funds of the county program, the administrator's decision is governed by the availability of funds and the requests for services to other patients. The administrator is guided in his decision by the base service unit's classification of the patient's mental disability according to the intervention priority scale. When the funds available do not permit the carrying out of the proposed service plan in relation to other demands, the administrator notes this on the Intake and Proposed Service Plan, Form [MH/MR] MH/ID 10, and requests the base service unit to work out an alternate service plan if indicated and necessary.

\*\*\*\*\*

#### **§ 4210.113. Client liability.**

(a) When the patient is not eligible for payment of a portion of the cost of his care through a benefit, he and his legally responsible relatives are liable for payment of that portion of the cost of his care not covered by payment through a benefit. The extent of this liability shall be determined according to the procedure described in Chapter 4305 (relating to liability for community mental health and [mental retardation] intellectual disability services).

\*\*\*\*\*

#### **§ 4210.123. Report of services provided.**

(a) All services provided are reported on Service Rendered Report, Form [MH/MR] MH/ID 13. Regardless of where services are provided, this form must be processed through the base service unit which serves the area in which the patient resides so that the base service unit can continue to monitor the services provided. Where the service is on a continuing basis, the service rendered report may be a monthly summary. If the base service unit certifies Form [MH/MR] MH/ID 13 indicating that the report is in keeping with the proposed service plan, Form [MH/MR] MH/ID 13 shall be forwarded to the administrator for payment.

\*\*\*\*\*

#### **§ 4210.141. General requirements.**

In order for the county program to be effective, consultation and education services are essential. The administrator shall arrange for the consultation and education services as are necessary to carry out the functions described in § 4210.6 (relating to scope of the program), by developing a county-wide program for these services. This program shall reflect:

\*\*\*\*\*

(3) Consultation and education services which the administrator has arranged to be provided by community mental health or [mental retardation] intellectual disability centers, by other facilities serving persons with a mental disability and by individual practitioners in the fields of mental health and [mental retardation] intellectual disability.

#### **§ 4210.142. Consultation service.**

Consultation service is an organized method by which professional advice is given by a practitioner in the mental health or [mental retardation] intellectual disability fields to a practitioner of another discipline or field regarding the mental health or [mental retardation] intellectual disability aspects of a problem and the most effective way of dealing with these aspects. The problem may be that of an individual, a specific group or a community. Consultation service by extending the expertise of a mental health or [mental retardation] intellectual disability practitioner enables the consultee to become a more effective care-giving person thus making possible a greater use of mental health and [mental retardation] intellectual disability professionals as well as identifying those persons who are a high risk. In addition to dealing with individual care-giving persons, mental health and [mental retardation] intellectual disability consultation service can also be of great benefit in helping a variety of agencies and groups to be aware of the mental health and [mental retardation] intellectual disability implications of their programs and to develop more appropriate and effective services.

#### **§ 4210.143. Education service.**

Education service is an organized method by which a practitioner in the fields of mental health or [mental retardation] intellectual disability furnishes professional groups, community agencies and the general public with information about mental health and [mental retardation] intellectual disability. By disseminating mental health and [mental retardation] intellectual disability information, education service facilitates both primary and secondary prevention by the early identification of those members of the population

who are at risk. When possible, provisions should be made by the administrator through base service units or other contractual facilities for sufficient out-reaching personnel with the objective of bringing persons so identified into the care-taking network. In the field of tertiary prevention, education is important in helping the public accept persons with a mental disability, provide employment and in other ways enhance their returning to and remaining in the community in useful roles.

**§ 4210.144. How services may be provided.**

(a) The administrator may provide for consultation and education services through the following:

\*\*\*\*\*

(2) Contracting with community mental health and [mental retardation] intellectual disability centers and with other facilities serving persons with a mental disability.

(3) Payment of a fee to individual practitioners in the fields of mental health and [mental retardation] intellectual disability.

\*\*\*\*\*

**§ 4210.151. Description.**

Training of personnel may include:

\*\*\*\*\*

(2) Staff development through attendance at State, regional and national meetings in the fields of mental health and [mental retardation] intellectual disability.

\*\*\*\*\*

**§ 4210.153. Staff development.**

Expenses for staff development may be authorized by the local authorities for the administrator, the program personnel of his staff and the program personnel of services provided under contract with the local authorities to attend State, regional and national meetings in the fields of mental health and [mental retardation] intellectual disability.

\*\*\*\*\*

**§ 4210.182. Responsibility for the program and services evaluation.**

\*\*\*\*\*

(b) The responsibility of the administrator for the evaluation shall be to:

\*\*\*\*\*

(2) Analyze and evaluate mental health and [mental retardation] intellectual disability needs and services in the county.

\*\*\*\*\*

(c) The Board shall have the following responsibility for the evaluation:

\*\*\*\*\*

(3) Based on the analysis prepared by the administrator, to review and evaluate the county's mental health and [mental retardation] intellectual disability needs, services, facilities and special problems in relation to the local health and welfare needs, services and programs.

(4) To make recommendations to the local authorities regarding the program and other matters relating to mental health and [mental retardation] intellectual disability services in the county.

\*\*\*\*\*

#### **§ 4210.191. Description.**

The base service unit classifies the patient's mental disability to reflect the severity of his functional disorders and priority for intervention. This is noted on I, II, III or IV on Intake and Proposed Service Plan, Form [MH/MR] MH/ID 10, under the following Intervention Priority Scale:

\*\*\*\*\*

## **CHAPTER 4215. ANNUAL PLAN AND ESTIMATE OF EXPENDITURES**



#### **§ 4215.1. Purpose.**

The purpose of this chapter is to specify the requirements for submission of an annual plan and estimate of expenditures by County Mental Health and [Mental Retardation (MH/MR)] Intellectual Disability (MH/ID) Programs to the Department.

#### **§ 4215.2. Applicability.**

This chapter applies to county [mental health/mental retardation (MH/MR)] mental health/intellectual disability (MH/ID) programs.

#### **§ 4215.3. Legal base.**

The legal authority for this chapter is section 201(2) of the Mental Health and [Mental Retardation] Intellectual Disability Act of 1966 (50 P. S. § 4201(2)).

#### **§ 4215.4. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Approve*—Acceptance based upon formal compliance with this chapter. The term does not imply the Department's agreement with the content of county [mental health/mental retardation (MH/MR)] mental health/intellectual disability (MH/ID) annual plan and estimate of expenditures regarding budget priorities.

*Board*—A group of persons appointed by the local authorities of a county, or two or

more counties participating in concert in a county mental health and [mental retardation] intellectual disability program, to review and evaluate the county's MH/[MR]ID needs, services, facilities and special problems in relation to local health and welfare needs, services and programs.

*County administrator*—The administrator of the county mental health and [mental retardation] intellectual disability program, or the administrator's designee.

\*\*\*\*\*

#### **§ 4215.21. Preparation of annual plan and estimate of expenditures.**

The county [mental health/mental retardation (MH/MR)] mental health/intellectual disability (MH/ID) administrator and the Board shall prepare an annual plan and estimate of expenditures in accordance with written instructions specified by the Department, including, but not limited to, instructions on budget estimates, needs assessments, and goal statements. The annual plan and estimate of expenditure shall describe how the services specified in Chapter 4210 (relating to description of services and service areas) are to be made available and shall estimate the anticipated expenditures for the services.

#### **§ 4215.22. Public hearing.**

(a) The county [mental health/mental retardation (MH/MR)] mental health/intellectual disability (MH/ID) administrator and the Board shall hold a public hearing to consider the

annual plan and estimate of expenditures, prior to submission of the annual plan and estimate of expenditures to the Department.

(b) The county [MH/MR] MH/ID administrator shall give adequate notice of the date, time and location of the public hearing to persons affected by the annual plan and estimate of expenditures.

(c) The county [MH/MR] MH/ID administrator shall provide notification of the public hearing through a widely distributed local newspaper, prior to the public hearing.

**§ 4215.23. Report of the public hearing.**

(a) The county [mental health/mental retardation (MH/MR)] mental health/intellectual disability (MH/ID) administrator shall prepare and maintain a summary report of the public hearing, including a list of people who testified and written comments received.

(b) The county [MH/MR] MH/ID administrator shall provide copies of the summary report of the public hearing to the Department upon request.

**§ 4215.24. Review and approval by local authorities.**

(a) The county [mental health/mental retardation (MH/MR)] mental health/intellectual disability (MH/ID) administrator and the Board shall submit the annual plan and estimate of expenditures to the local authorities for review and approval.

\*\*\*\*\*

**§ 4215.25. Submission of the notice of public hearing and the annual plan and estimate of expenditures to the Department.**

After approval by the local authorities, the county [mental health/mental retardation (MH/MR)] mental health/intellectual disability (MH/ID) administrator and the Board shall submit to the Department the notice of public hearing and the annual plan and estimate of expenditures.

**§ 4215.26. Review of the annual plan and estimate of expenditures by the Department.**

\*\*\*\*\*

(b) The Department will notify the county [mental health/mental retardation (MH/MR)] mental health/intellectual disability (MH/ID) administrator of the result of the review against predetermined criteria.

\*\*\*\*\*

**CHAPTER 4220. REIMBURSEMENT FOR MEDICATIONS**

**§ 4220.1. Purpose.**

This chapter specifies requirements pertaining to reimbursement by the county mental health and [mental retardation] intellectual disability program for the cost of drugs.

### **§ 4220.2. Applicability.**

This chapter applies to county mental health and [mental retardation] intellectual disability programs.

### **§ 4220.3. Legal base.**

The legal authority for this chapter is section 201(2) of the Mental Health and [Mental Retardation] Intellectual Disability Act of 1966 (50 P. S. § 4201(2)).

### **§ 4220.11. Purchase of drugs.**

(a) In order for the cost of a drug to be reimbursed by the county mental health and [mental retardation] intellectual disability program it must be prescribed by a practitioner licensed by statute to prescribe the drugs and must be specifically for the mental disorder under treatment. Client liability and third party revenues must be exhausted before county mental health and [mental retardation] intellectual disability funds are used.

(b) For a pharmacy to receive reimbursement from the county mental health and [mental retardation] intellectual disability program it must be licensed by the State Board of Pharmacy.

### **§ 4220.12. Limitations.**

(a) Drugs in the following general categories may be reimbursed by the county mental health and [mental retardation] intellectual disability program.

\*\*\*\*\*

(b) The county mental health and [mental retardation] intellectual disability program may also reimburse for an item not falling in the general categories listed in subsection (a)(1)—(8), if in the licensed practitioner's professional opinion, it is essential for the present treatment of the patient's mental disorder. The county mental health and [mental retardation] intellectual disability program may require, as a condition of reimbursement for these items, that prior approval be given by the County [MH/MR] MH/ID Program. Where prior approval is required, it is the responsibility of the county administrator to ensure that proper notification of approval be given to the pharmacy at the time the prescription is presented to be filled.

\*\*\*\*\*

(d) The County [MH/MR] MH/ID Program's maximum rate of reimbursement for drugs is the pharmacy's usual and customary charges to the general public for psychotropic drugs. Discounts given to special groups such as senior citizens must also be given to County [MH/MR] MH/ID clients who are members of those specialized groups.

#### **§ 4220.13. Procedures.**

(a) The prescription must be made on Prescription and Pharmacist's Invoice, Form [MH/MR] MH/ID 12. The number of refills permitted—not to exceed one—should be indicated on the [MH/MR] MH/ID 12. It is the responsibility of the physician to ensure that the patient's drug costs are eligible for reimbursement by the County [MH/MR]

MH/ID 12 Program and have been authorized for payment by the county administrator before using an [MH/MR] MH/ID 12 prescription form.

(b) The pharmacy submits the [MH/MR] MH/ID 12 on a monthly basis to the county [MH/MR] MH/ID administrator for reimbursement. Refills of prescriptions should be reported to the county program on a monthly basis on a form of the county program's choosing.

(c) The county administrator is responsible for providing authorization for purchase of medication. The county administrator is also responsible for ensuring that the invoice is correctly priced and is for eligible drugs. The county administrator makes payment to the pharmacy for invoices submitted under subsection (b). It is the responsibility of the county administrator to ensure that patient liability and third party revenues are exhausted before County [Mental Health/Mental Retardation (MH/MR)] Mental Health/Intellectual Disability (MH/ID) funds are used. This responsibility may be delegated; however, the county administrator shall make every effort to ensure that pharmacies are reimbursed in a timely fashion. The goal should be reimbursement within 30 days of receipt of the claim.

#### **§ 4220.14. Cost and quality control measures.**

\*\*\*\*\*

(d) The following cost control measures are available to county programs when taken in consultation with a county PTRC. These measures should only be used when limited resources cause expenditure on medication to impact adversely on other service areas.

Caution should be exercised in the use of these measures. The goal of the PTRC program should be to ensure cost benefit and sound practice in the county drug program, while at the same time permitting flexibility, easy access by clients, and encouraging the private model of human service delivery and of the dispensing of drugs.

\*\*\*\*\*

(5) The county program PTRC may conduct a review or audit of pharmacies participating in the [Mental Health/Mental Retardation (MH/HR)] Mental Health/Intellectual Disability (MH/ID) drug program to ensure that charges made by the pharmacy to the county program are the usual and customary charges of the pharmacy to the general public.

\*\*\*\*\*

## **CHAPTER 4230. WAIVER OF SERVICE**

### **§ 4230.1. Purpose.**

This chapter defines the process for requesting a waiver of the duty to provide mental health and [mental retardation] intellectual disability mandated services. Section 301(d) of the Mental Health and [Mental Retardation] Intellectual Disability Act of 1966 (50 P. S. § 4301(d)) requires county mental health and [mental retardation] intellectual disability programs to provide the following nine mandated services:

\*\*\*\*\*



(8) Interim care of [mentally retarded persons] individuals with an intellectual disability.

\*\*\*\*\*

**§ 4230.2. Applicability.**

This chapter applies to county mental health and [mental retardation] intellectual disability programs.

**§ 4230.3. Legal base.**

The legal authority for this chapter is sections 201(2) and 508 of the Mental Health and [Mental Retardation] Intellectual Disability Act of 1966 (50 P. S. § § 4201(2) and 4508).

**§ 4230.11. Requesting waivers.**

(a) A county mental health and [mental retardation] intellectual disability program is permitted to request a waiver of one or more of the nine mandated services if the service is not available or if the county mental health and [mental retardation] intellectual disability program shows that it is economically unsound to provide the service.

\*\*\*\*\*

**§ 4230.12. Documentation.**

(a) The county mental health and [mental retardation] intellectual disability program shall submit a written request for waiver to the Secretary of the Department of Human

Services, with a copy of the request for waiver to the Deputy Secretary, Office of [Mental Retardation] Developmental Programs and the Deputy Secretary, Office of Mental Health and Substance Abuse Services.

\*\*\*\*\*

(b) A request for waiver shall include the following:

\*\*\*\*\*

(4) The total expenditure by the county mental health and [mental retardation] intellectual disability program for the service in the previous and current fiscal year.

\*\*\*\*\*

#### **§ 4230.14. Hearing.**

\*\*\*\*\*

(b) The county mental health and [mental retardation] intellectual disability program shall arrange a location for the hearing.

(c) The county mental health and [mental retardation] intellectual disability program shall inform the public of the date, time, location and purpose of the hearing.

(d) The county mental health and [mental retardation] intellectual disability program shall present the request for waiver and justification for the waiver at the hearing.

**§ 4230.15. Waiver decision.**

The Department will provide a written waiver decision to the county mental health and [mental retardation] intellectual disability program by June 30 of the year in which the waiver request was made.

**§ 4230.16. Provision for mandated service.**

(a) If the waiver is granted, the county mental health and [mental retardation] intellectual disability program is not required to provide the mandated service for the fiscal year for which the waiver was granted.

(b) If a waiver is granted and the Department decides to provide the service according to section 508(b) of the Mental Health and [Mental Retardation] Intellectual Disability Act of 1966 (50 P. S. § 4508(b)), the county mental health and [mental retardation] intellectual disability program is liable for the total county share for the service waived, under section 508(c) of the Mental Health and [Mental Retardation] Intellectual Disability Act of 1966 (50 P. S. § 4508(c)). The county's mental health and [mental retardation] intellectual disability allocation shall be reduced by the total State amount expended in the fiscal year immediately preceding the fiscal year of the waiver, for the service waived. The actual amount reduced from the county's mental health and [mental retardation] intellectual disability allocation is deducted in the year of the waiver.

(c) If a waiver is granted, and the Department decides not to provide the service according to section 508(b) of the Mental Health and [Mental Retardation] Intellectual Disability Act of 1966 (50 P. S. § 4508(b)), the county mental health and [mental

retardation] intellectual disability allocation shall be reduced by the total State amount expended in the fiscal year immediately preceding the fiscal year of the waiver, for the service waived. The actual amount reduced from the county's mental health and [mental retardation] intellectual disability allocation is deducted in the year of the waiver.

(d) If the waiver is denied, the county mental health and [mental retardation] intellectual disability program shall provide the service for which the waiver was requested.

#### **§ 4230.17. Right to appeal.**

The county mental health and [mental retardation] intellectual disability program has the right to appeal the Department's decision under 2 Pa.C.S. § § 501—508 and 701—704 (relating to Administrative Agency Law). Appeals shall be submitted within 15 days of receipt of the Department's waiver decision to the Department's Hearing and Appeals Unit, according to the appeal procedures in 1 Pa. Code Part II (relating to preliminary provisions).

\*\*\*\*\*

### **CHAPTER 4300. COUNTY MENTAL HEALTH AND [MENTAL RETARDATION] INTELLECTUAL DISABILITY FISCAL MANUAL**

#### **§ 4300.1. Purpose.**

This chapter specifies the fiscal requirements for county mental health and [mental retardation] intellectual disability programs.

## **§ 4300.2. Applicability.**

This chapter applies to county mental health and [mental retardation] intellectual disability programs. County mental health and [mental retardation] intellectual disability programs shall use this chapter to reimburse providers of service.

## **§ 4300.3. Legal base.**

The legal authority for this chapter is section 201(2) of the Mental Health and [Mental Retardation] Intellectual Disability Act of 1966 (50 P. S. § 4201(2)).

## **§ 4300.4. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Act*—The Mental Health and [Mental Retardation] Intellectual Disability Act of 1966 (50 P. S. §§ 4101—4704).

\*\*\*\*\*

*County program*—A mental health and [mental retardation] intellectual disability program established by a county, or two or more counties acting in concert. The term includes a program which contains a variety of services and provides a continuum of care in the community for [the mentally disabled] individuals with a mental disability.

\*\*\*\*\*

*Facility*—An establishment, hospital, clinic, institution, center, day care center or other organizational unit, or part thereof, which is devoted primarily to the diagnosis and treatment of [the mentally disabled] individuals with a mental disability.

\*\*\*\*\*

**§ 4300.21. Departmental powers.**

The Department has the power to make grants, pay subsidies, purchase service and provide reimbursement for mental health and [mental retardation] intellectual disability services under the act.

**§ 4300.22. Departmental financial participation.**

A service shall qualify for Departmental financial participation if it is authorized by the act and is specifically provided for in this chapter or approved by the Department in advance of its incorporation in the county plan as training, research or another service or program designed to prevent mental disability or the necessity of admitting or committing the [mentally disabled] individual with a mental disability to a facility.

**§ 4300.23. Percentage of expenditures reimbursable.**

(a) Subject to the appropriation of funds and under the act and this chapter, the Department will participate at 100% of the approved expenditures for the following:

\*\*\*\*\*

(3) Licensed community [mental retardation] residential programs for [the mentally retarded] individuals with an intellectual disability.

\*\*\*\*\*

**§ 4300.25. Direct provision of services.**

Direct provision of services is the provision of mental health and [mental retardation] intellectual disability services by county employees under the supervision of the county authority. Costs associated with the direct provision of services, subject to the limitations contained in this chapter, are eligible for Departmental participation.

**§ 4300.26. Unit of service funding.**

Unit of service funding is the procedure used to fund facilities based on a charge per unit of service. Unit of service funding applies to facilities which are administered separately from the county or county joinder and which receive reimbursement by a contracted per diem or fee rate. Funding is based on a charge per service.

(1) The following services shall be purchased only by the unit of service:

\*\*\*\*\*

(vii) Services where the provision of the service is not limited to [the mentally disabled] individuals with a mental disability, such as a workshop service or day care.

\*\*\*\*\*

**§ 4300.45. Staff development.**

\*\*\*\*\*

(c) Training for staff shall be in or directly related to the fields of mental health and [mental retardation] intellectual disability, or the administration of these programs.

\*\*\*\*\*

**§ 4300.46. Purchased personnel services.**

\*\*\*\*\*

(b) County employees may not receive remuneration for acting as consultants or in another capacity to facilities with which the county/joinder contracts for mental health and [mental retardation] intellectual disability services, or with Commonwealth agencies.

\*\*\*\*\*

**§ 4300.48. Occupancy.**

\*\*\*\*\*



(d) Mortgaged real estate which is owned and utilized by a county/joinder may be charged to the Department, except that no charge may be made for the refinancing of buildings unless a lower interest rate is available. The original amortization period may not be extended. Departmental participation is limited to the mortgaged cost associated with acquisition or renovation/improvement/repair/maintenance, or both, of property. The amount of these charges shall be the lesser of the fair rental value of the space and use, or the actual cost of the principal and interest incurred in the mortgage amortization, including any amortized minor or major renovation/improvement/repair/maintenance costs. The amount charged shall be prorated in relation to the percentage of space used by the program.

(1) The Department will participate in closing costs and downpayments required by lending institutions for the acquisition of real estate to be used for the county mental health and [mental retardation] intellectual disability program. The Department will participate in a downpayment not to exceed 25% of the property value. Real estate purchased with a downpayment reimbursed by the Department shall be used in the county program for at least 5 years.

\*\*\*\*\*

#### **§ 4300.56. Library expenses.**

The Department will participate in the purchase of books, documents and subscriptions to journals pertaining to mental health, [mental retardation] intellectual disability and other relevant topics.

\*\*\*\*\*

**§ 4300.63. Commitment procedures.**

(a) The Department will participate in costs incurred by counties for the commitment of individuals under the Mental Health Procedures Act (50 P. S. § § 7101—7503) and [mental retardation] intellectual disability commitments under the act.

(b) The following costs are allowable:

\*\*\*\*\*

(2) Attorney for the county mental health and [mental retardation] intellectual disability program or the facility.

\*\*\*\*\*

**§ 4300.68. Title to fixed assets.**

(a) Title to fixed assets, excluding real estate, acquired with mental health and [mental retardation] intellectual disability funds shall remain with the county/joinder.

(b) Income received by the county program when disposing of fixed assets obtained with mental health and [mental retardation] intellectual disability funds shall be used to reduce gross expenditures submitted by the county program for Departmental participation. The county may reimburse the Department in direct proportion to the Department's participation in the purchase of the fixed assets—either 90% or 100%.

(c) Fixed assets acquired with mental health and [mental retardation] intellectual disability funds shall be solely for the benefit of the mental health and [mental retardation] intellectual disability program. If fixed assets are transferred from the mental health and [mental retardation] intellectual disability program, the county/joinder shall reimburse the Department for its percentage of the remaining value of the equipment based on an independent appraisal of the value of the fixed assets. The county program may not transfer fixed assets purchased with categorical funding to another component of the county program without the prior written approval of the appropriate program deputy secretary.

\*\*\*\*\*

#### **§ 4300.83. Compensation.**

\*\*\*\*\*

(c) The Department will participate in the costs of compensation for employees of agencies funded on a unit of service basis. The Department will participate in compensation for the chief executive officers of these agencies up to the combined salaries and benefits approved for these positions. A chief executive officer reimbursement grid methodology will be used to determine eligible salaries. It classifies agencies according to total expenditures, and as multiple or single service providers. Multiple service providers are those providers for which counties reported expenditures of at least \$100,000 in at least two cost centers. Single service providers are those

providers for which counties reported expenditures of at least \$100,000 in a single cost center. Total provider expenditures and expenditures by cost center will be based on annual county program income and expenditure reports submitted by counties under § 4300.133 (relating to financial reporting requirements) and the cost reports submitted to the Department by intermediate care facilities for [the mentally retarded] individuals with an intellectual disability. The Department will entertain waiver requests submitted under § 4300.11 (relating to waivers) to include other expenditures, not normally reported to the Department, for classifying agencies.

\*\*\*\*\*

**§ 4300.86. Staff development.**

\*\*\*\*\*

(b) Training for staff shall be in or directly related to the fields of mental health and [mental retardation] intellectual disability, or the administration of these programs.

\*\*\*\*\*

**§ 4300.94. Agency indirect costs.**

\*\*\*\*\*

(g) To be allowable for Departmental participation, indirect costs shall meet the following criteria:

\*\*\*\*\*

(3) Conform to limitations, exclusions or allowable cost standards for items of expenditure as included in this chapter if more than 50% of the agency's indirect costs are allocated to mental health or [mental retardation] intellectual disability programs, or both, funded by a county/joinder or a combination of Commonwealth counties/joinders.

\*\*\*\*\*

**§ 4300.95. Library expenses.**

The Department will participate in the purchase of books, documents and subscriptions to journals pertaining to mental health, [mental retardation] intellectual disability and other relevant topics.

\*\*\*\*\*

**§ 4300.106. Title to fixed assets.**

\*\*\*\*\*

(c) If title remains with the county/joinder, contracted agencies may not sell, leave, donate or dispose of county fixed assets without written permission from the appropriate county authority. Upon termination or cancellation of the contract and within a fixed period determined in that contract, the county shall at its discretion:

\*\*\*\*\*

(2) Dispose of fixed assets purchased with mental health and [mental retardation] intellectual disability funds upon obtaining an independent appraisal of the fixed assets.

\*\*\*\*\*

**§ 4300.117. Computation of reimbursement.**

\*\*\*\*\*

(b) The potential reimbursement by the county is computed as follows:

\*\*\*\*\*

(5) If collection has been pursued according to Chapter 4305 (relating to liability for community mental health and [mental retardation] intellectual disability services), the Department will participate in reimbursement to a provider of the uncollectable net charge to the liable person or the uncollectable net charge to a third party up to the potential reimbursement by the county.

\*\*\*\*\*

**§ 4300.118. Special limitations on unit of service funding.**

\*\*\*\*\*

(e) Charges to clients of the county program shall be in accordance with Chapter 4305 (relating to liability for community mental health and [mental retardation] intellectual disability services). A facility may not seek reimbursement from a client of the county program above that provided for under this title.

\*\*\*\*\*

**§ 4300.132. Accountability for expenditures of mental health and [mental retardation] intellectual disability funds for clients.**

\*\*\*\*\*

**§ 4300.134. Apportionment of administrator's office costs.**

The costs of the [adminstrator's] administrator's office as defined in this chapter are funded from both mental health and [mental retardation] intellectual disability allocations. Two alternatives are available for apportioning these costs. The costs of the administrator's office may be apportioned according to the actual cost incurred for the administration of each program or as a proportion of program costs. Documentation supporting the apportionment of these costs shall be retained by the county program.

**§ 4300.135. Actual costs.**

The intention of this method is to determine and assign the actual costs related to the provision of mental health or [mental retardation] intellectual disability services. Once a county program has developed and implemented a methodology for apportionment based on actual costs, it may not assign costs according to a proportion of program costs methodology. Costs shall be assigned as follows:

(1) Costs which can be readily identified as mental health or [mental retardation] intellectual disability shall be appropriately assigned.

\*\*\*\*\*

**§ 4300.136. Proportion of program costs.**

The Department's grants to county programs include base allocations, categorical allocations and allocations of Federal funds. The ratios of the mental health and [mental retardation] intellectual disability allocations to the total allocation received from the Department shall be used to assign the costs of the administrator's office when using this method.

**§ 4300.137. County joinder contracts.**

When a mental health and [mental retardation] intellectual disability program is administered by two or more counties, the local authorities acting in concert shall enter into a contract to establish the policies of that program.

\*\*\*\*\*

(4) The contract shall include a description of policies agreed to by the counties as prevailing county practice for the mental health and [mental retardation] intellectual disability program. These include the policies of leave, travel, recruitment and consultant fees.

\*\*\*\*\*

**§ 4300.139. Contracting requirements.**

\*\*\*\*\*



(c) A signed contract becomes the authorization for the expenditure of funds for services identified by the agreement. County mental health and [mental retardation] intellectual disability funds cannot be expended for provider expenses until a contract exists. For licensed inpatient and authorized partial hospital providers, an authorization for service form may be used, in lieu of a contract, to purchase services.

(d) Counties shall establish a procedure to provide contract agencies with an opportunity to be heard by the county mental health and [mental retardation] intellectual disability board, or a committee thereof, regarding contract disputes arising under this chapter. The purpose shall be for the board to hear the issues and arguments involved in the dispute and develop recommendations to the appropriate county authority.

\*\*\*\*\*

#### **§ 4300.148. Uncollected revenue.**

Income referred to as accounts receivable may be adjusted for uncollected revenues when a request for abatement or write-off has been approved under Chapter 4305 (relating to liability for community mental health and [mental retardation] intellectual disability services).

\*\*\*\*\*

#### **§ 4300.155. Categorical funding.**

(a) Categorical funding is the identification of a certain dollar amount in a county mental health and [mental retardation] intellectual disability allocation to be used for a specific

component of the county program. The funding may occur as the result of an authorization by the Secretary. The funds shall be considered restricted and available for the stated purpose only. This also applies to the base program allocation as a whole.

\*\*\*\*\*

#### **§ 4300.158. Revenue.**

\*\*\*\*\*

(f) Interest earned on Departmental funds shall be considered as other income to reduce total expenditures in arriving at eligible expenditures for Departmental participation. Since interest is considered a legitimate revenue of the county program, it is available for use by the program to increase the level of service provided. Interest may not be used to offset the county's 10% matching share, to fund nonmental health/[mental retardation] intellectual disability services, or to fund general county expenses not properly apportioned to the mental health/[mental retardation] intellectual disability program.

#### **§ 4300.159. Restricted receipt account.**

The funds for the county [mental health/mental retardation] mental health/intellectual disability program shall be used for this specific purpose and accounted for separately from other monies. This may be accomplished by maintaining separate bank accounts or by fund accounting. Monies may be combined if the following exist:

\*\*\*\*\*

**§ 4300.161. Contracted agency audits.**

\*\*\*\*\*

(c) This chapter may not be construed to limit the authority of the Department, the Department's Comptroller's Office, the Auditor General, Federal auditors or other authorized agencies to perform audits of contracted agencies. The county or its agents shall have access to and the right to examine records of contracted agencies involving transactions related to mental health and [mental retardation] intellectual disability funding.

\*\*\*\*\*

**CHAPTER 4305. LIABILITY FOR COMMUNITY MENTAL HEALTH AND [MENTAL RETARDATION] INTELLECTUAL DISABILITY SERVICES**

**§ 4305.1. General.**

One of the primary goals of the public mental health and [mental retardation] intellectual disability program is to provide easy access to treatment or habilitation services and to encourage people to seek help.

**§ 4305.2. Purpose.**

The purpose of this chapter is to specify the liability and describe the procedures for establishing and collecting liability for clients receiving community mental health or

[mental retardation] intellectual disability services funded in whole or in part through the County Mental Health and [Mental Retardation] Intellectual Disability Program.

### **§ 4305.3. Applicability.**

(a) This chapter applies to county mental health and [mental retardation] intellectual disability programs.

\*\*\*\*\*

### **§ 4305.4. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

\*\*\*\*\*

*County administrator*—The administrator of the county mental health and [mental retardation] intellectual disability program, or a designee.

*Intellectual disability professional*—A case manager or an individual who is responsible for the clinical treatment program for the client.

\*\*\*\*\*

*[Mental retardation professional—A case manager or an individual who is responsible for the clinical treatment program for the client.]*

\*\*\*\*\*

#### **§ 4305.5. Legal base.**

The legal authority for this chapter is sections 201(2) and 504(d) of the Mental Health and [Mental Retardation] Intellectual Disability Act of 1966 (50 P. S. § § 4201(2) and 4504(d)).

\*\*\*\*\*

#### **§ 4305.11. Exempt services.**

The following mental health and [mental retardation] intellectual disability community services are exempt from liability requirements specified in the chapter:

\*\*\*\*\*

(4) Respite care, as defined in Chapters 6350 and 6400 (relating family resource services; and community homes for individuals with [mental retardation] an intellectual disability).

\*\*\*\*\*

(11) Other [mental retardation] intellectual disability family support services including and limited to sitter and companionship services, parent and family training, speech therapy, aural rehabilitation, hearing aid evaluations, dactylogic therapy, physical

therapy, occupational therapy, mobility training, behavioral programming, adaptive appliances, special diets and home rehabilitation.

\*\*\*\*\*

### **§ 4305.13. Nonexempt service.**

Liability requirements specified in this chapter apply to a mental health and [mental retardation] intellectual disability community service not listed in § 4305.11 (relating to exempt services).

\*\*\*\*\*

### **§ 4305.15. Delegation of authority.**

(a) The county administrator has the authority to delegate the functions required in this chapter to base service units or providers of community mental health and [mental retardation] intellectual disability services, except for the functions of adjusting liability amounts specified in § § 4305.61—4305.69 (relating to adjustment of liability) and write-off of past due accounts specified in § § 4305.91—4305.94 (relating to write-off of past due account).

(b) If functions required in this chapter are delegated to providers of community mental health and [mental retardation] intellectual disability services, the county administrator shall retain responsibility for compliance with the requirements of this chapter.

\*\*\*\*\*

**§ 4305.17. Eligibility of expenditures.**

Expenditures by a county mental health and [mental retardation] intellectual disability program on behalf of a client are eligible for reimbursement by the Department only if a liability has been billed and collection has been pursued according to the requirements specified in this chapter.

\*\*\*\*\*

**§ 4305.21. Contributions.**

Contributions made to the county mental health and [mental retardation] intellectual disability program or the provider by charitable organizations, friends or neighbors on behalf of the client toward the cost of care shall be treated as payment by the liable person. Contributions may not be counted as income to the client as part of the total family income.

**DETERMINATION OF LIABILITY**

**§ 4305.31. Determinations.**

(a) The county administrator shall determine a liability for clients receiving a community mental health or [mental retardation] intellectual disability service funded in whole or in part through the county mental health or [mental retardation] intellectual disability program that is not listed as an exempt service in § 4305.11 (relating to exempt services).

(b) The liability shall be determined prior to client referral to or placement into community mental health and [mental retardation] intellectual disability services, except for emergency referrals or placements in which the liability shall be determined within 15 days after emergency referral or placement.

\*\*\*\*\*

**§ 4305.33. Income to be considered.**

\*\*\*\*\*

(g) Parents who adopt children under the Pennsylvania Adoption Assistance program, § 3140.207 (relating to entitlement to other services and benefits), have no liability for mental health and [mental retardation] intellectual disability services. The child shall be considered a family of one and liability shall be determined based on the income of the child.

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**§ 4305.42. More than one client receiving service.**

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(b) If at least one client in the family is receiving community mental health or [mental retardation] intellectual disability residential services or short-term inpatient services, the liability shall be the amount listed in Appendix B.



(c) If clients in the family are receiving only community mental health or [mental retardation] intellectual disability nonresidential services, the liability shall be the amount listed in Appendix A.

**§ 4305.43. Client receiving more than one service.**

(a) If services received by the client in a calendar month are community mental health and [mental retardation] intellectual disability nonresidential services or noninpatient services, the liability shall be the amount listed in Appendix A.

(b) If services received by the client in a calendar month are community mental health and [mental retardation] intellectual disability residential services or short-term inpatient services, even if community mental health and [mental retardation] intellectual disability nonresidential services or short-term inpatient services are also provided, the liability shall be the amount listed in Appendix B.

\*\*\*\*\*

**§ 4305.51. Billing.**

(a) The county administrator shall bill the liable person each month that community mental health and [mental retardation] intellectual disability services are received.

(b) If the liability exceeds the actual cost of [mental retardation] intellectual disability services or the net charge for mental health services received for a month, the county administrator shall bill the liable person for the actual cost of [mental retardation] intellectual disability services or the net charge for mental health services received.

**§ 4305.52. Insurance.**

(a) If a client is receiving or is expected to receive a community mental health or [mental retardation] intellectual disability service, or both, that is eligible for insurance, the county administrator or the provider of service shall bill the insurance company for the service prior to billing the liable person. The amount received from the insurance company for services provided over a calendar month shall be deducted from the liability for [mental retardation] intellectual disability services or the client fee schedule per unit times the number of units delivered that month for mental health services. The liable person shall be billed the remainder up to the liability.

\*\*\*\*\*

**§ 4305.61. Request for adjustment of liability.**

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(c) Requests for adjustment of liability shall be made by the liable person, the client, or the mental health or [mental retardation] intellectual disability professional.

\*\*\*\*\*

**§ 4305.66. Reason for adjustment of liability—nullify result of care.**

\*\*\*\*\*

(b) Requests for an adjustment of the liability due to nullification of the result of care shall include documentation by a [mental health/mental retardation] mental

health/intellectual disability professional justifying the clinical reasons for the request and how the client's welfare would be seriously harmed if the liability is not adjusted.

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## **APPENDIX A**

Monthly Liability for Community Mental Health and [Mental Retardation] Intellectual Disability Nonresidential Services

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## **APPENDIX B**

Monthly Liability for Community Mental Health and [Mental Retardation] Intellectual Disability Residential and Short-Term Inpatient Services

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## **CHAPTER 4310. CLIENT LIABILITY—STATE**

### **[MH/MR] MH/ID FACILITIES**

#### **§ 4310.1. Legal base.**

The legal base for this chapter is sections 201(2)(v) and 504(d) of the Mental Health and [Mental Retardation] Intellectual Disability Act of 1966 (50 P. S. § § 4201(2) and 4504(d)).

\*\*\*\*\*

### **§ 4310.3. Applicability.**

This chapter applies to State mental hospitals and State [mental retardation] intellectual disability centers. Liability for services received at these facilities is determined according to this chapter.

### **§ 4310.4. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

\*\*\*\*\*

*Client*—A patient/resident of a State mental hospital or State [mental retardation] intellectual disability center.

\*\*\*\*\*

*Intellectual disability professional*—A case manager or an individual who is responsible for the clinical treatment program of the resident.

*LLR—Legally liable relative*—A parent or spouse responsible for the costs of service for a client in a State mental hospital or State [mental retardation] intellectual disability center, or a client who is legally responsible for the support of his spouse or dependent children.

\*\*\*\*\*

*[Mental retardation professional]*—A case manager or an individual who is responsible for the clinical treatment program of the resident.]

\*\*\*\*\*

**§ 4310.6. Maximum liability—payors/liable persons.**

The maximum liability for services provided is established by the institutional collections officer for both payors and liable persons within the following:

\*\*\*\*\*

**(6) *Client/resident maximum liability.***

(i) Maximum client liability is based on income or assets of the client, or both, in excess of amounts paid by third-party payors or other agencies, up to the per diem rate established for the facility. Monthly charges for services provided to mental health and [mental retardation] intellectual disability clients may not exceed the product of the per diem rate multiplied by the number of days in the month.

\*\*\*\*\*

**§ 4310.9. Working client income.**

When a client residing in a State mental hospital or State [mental retardation] intellectual disability center receives income for services rendered at sheltered workshops or other employment, 50% of all income over \$65 per month is assessed for his cost of service provided. Any amount less than \$65 per month is [exempted] exempted as personal use monies. Personal use monies may be conserved for his use up to a maximum of \$1,500. When the conserved fund maximum is reached, the full amount of income is assessed less \$25 per month personal use monies. If, after the assessment, the conserved fund level still exceeds the maximum of \$1,500, the excess income over \$1,500 is assessed. If the conserved fund account falls below \$1,500, the assessment returns to 50% of all income over \$65 until funds again reach \$1,500.

\*\*\*\*\*

**§ 4310.17. Abatement or modification of liability.**

(a) Only in extraordinary circumstances will consideration be given to abatement or modification of liability in accordance with the following criteria under section 504(a) of the Mental Health and [Mental Retardation] Intellectual Disability Act of 1966 (50 P. S. § 4504(a)). The imposition of such liability would:

\*\*\*\*\*

**§ 4310.20. Clinical abatement or modification of liability.**

(a) The Department may make a clinical abatement or modification of liability if the imposition of liability would result in a greater financial burden upon the people of this Commonwealth or would create such a financial burden upon such mentally disabled person as to nullify the result of care and treatment, service, or other benefits afforded to the person under the Mental Health and [Mental Retardation] Intellectual Disability Act of 1966. Clinical abatements will be granted only if:

\*\*\*\*\*

(b) Requests for clinical abatement or modification may be initiated either by the MH or [MR] intellectual disability professional who is treating the client or by the liable person. If initiated by the liable person, the request shall be endorsed by the MH or [MR] intellectual disability professional who is treating the client.

(c) When making a request for clinical abatement, the treating MH or [MR] intellectual disability professional shall justify the request in the client's case record by stating why he believes that the client qualifies for clinical abatement or modification. The request for clinical abatement or modification shall be forwarded to the Secretary's designee on Form PW-1075. The Secretary's designee shall review the request and notify the MH or [MR] intellectual disability professional and the institutional collections officer of the decision.

\*\*\*\*\*

**APPENDIX A**  
**LLR**  
**MONTHLY LIABILITY SCALE**

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Dear

Under Sections 501, 502 and 503 of the Mental Health and [Mental Retardation] Intellectual Disability Act of 1966, you are liable for services provided the client mentioned above. According to the Department of Human Service's Regulations promulgated as Chapter 4310 your monthly liability has been assessed in the maximum amount specified above. You will be billed monthly for services provided in accordance with charges established by the Department of Human Services or the amount of your liability, whichever is the lesser amount. It is your responsibility to report significant changes in income which may effect the amount of your liability.

**REQUEST FOR DEPARTMENTAL REVIEW**  
**CLINICAL ABATEMENT**

\*\*\*\*\*

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of [MH/MR] MH/ID Professional  
PW 1075



\*\*\*\*\*

## PART VIII. INTELLECTUAL DISABILITY AND AUTISM MANUAL

### SUBPART C. ADMINISTRATION AND FISCAL MANAGEMENT

#### CHAPTER 6201. COUNTY [MENTAL RETARDATION] INTELLECTUAL DISABILITY SERVICES

##### § 6201.1. Introduction.

(a) The county program is the means by which minimum services, as described in the Mental Health and [Mental Retardation] Intellectual Disability Act of 1966 (50 P. S. § § 4101—4704), are available to promote the social, personal, physical and economical habilitation or rehabilitation of [mentally retarded] persons with an intellectual disability with respect for the full human, social and legal rights of each person. This means that the health, social, educational, vocational, environmental and legal resources that serve the general population shall be marshalled and coordinated by the county program to meet the personal development goals of [mentally retarded] persons with an intellectual disability, in accordance with the principle of normalization. Normalization means to ensure for every [mentally retarded] person with an intellectual disability and his family the right to live a life as close as possible to that which is typical for the general population. The mandated services, the provision of service mechanisms and the fiscal support of the program shall be used to secure for each person and his family the conditions and circumstances of day-to-day life that comes as close as possible to representing typical life patterns.

(b) In keeping with this principle of normalization, the county program shall serve as an advocate for persons [who are mentally retarded] with an intellectual disability and secure for them their full entitlement to existing and future human services available to the general population.

**§ 6201.2. Purpose.**

This chapter establishes county responsibilities and content of services for county [MH/MR] MH/ID programs.

**§ 6201.3. Applicability.**

This chapter applies to county [MH/MR] MH/ID programs.

**§ 6201.4. Legal base.**

The legal authority for this chapter is section 201(2) of the Mental Health and [Mental Retardation] Intellectual Disability Act of 1966 (50 P. S. § 4201(2)).

**SERVICE DELIVERY**

**§ 6201.11. County program.**

The county is responsible for the following objectives:

(1) Primary prevention of organic and functional [mental retardation] intellectual disability.

\*\*\*\*\*

(6) Community development and restructuring to achieve the maximum normalization for [mentally retarded persons] individuals with an intellectual disability.

**§ 6201.12. Base service unit.**

(a) The county administrator is responsible for establishing an organizational unit consisting of multidisciplinary professional and nonprofessional staff capable of planning, directing and coordinating appropriate services for [persons who are mentally retarded] individuals with an intellectual disability and in need of service from the county program. This unit shall be called the base service unit, and the county administrator shall have the authority to direct, control and monitor the activities of the base service unit.

(b) The base service unit is responsible for performing the following functions in such a way as to carry out the following objectives of the county program:

(1) Establish or develop a system utilizing preventive services in the community for [the mentally retarded] persons with an intellectual disability.

(2) Establish and operate a system for earliest possible casefinding.

(3) Maintain a continuing relationship with the [mentally retarded] person with an intellectual disability and with a facility or provider of service responsible for service to the [mentally retarded] person with an intellectual disability during any stage of his life-management process.

(4) Constitute a fixed point of referral and information for [mentally retarded] persons with an intellectual disability and their families.

(5) Initiate, develop and maintain a pattern of interaction between the diagnostic and evaluation team and others concerned with services to any [mentally retarded] person with an intellectual disability and his family. This pattern shall emphasize participation in the life-management planning process of such persons as the family, physician, local public health nurse, teacher, representative of human service resources, vocational rehabilitation counselor, other providers of service, advocates and the [mentally retarded] person with an intellectual disability, whenever possible.

\*\*\*\*\*

(8) Ensure that if service to the [mentally retarded] person with an intellectual disability is provided by other than the base service unit and the [mentally retarded] person with an intellectual disability is referred for intake into the county program, the referring agency or the provider of service are invited to cooperate with the base service unit in diagnosis, evaluation and planning for the person.

\*\*\*\*\*

(10) Provide for comprehensive diagnosis and evaluation services to do all of the following:

(i) Diagnose, appraise and evaluate [mental retardation] intellectual disability and associated disabilities; define the strengths, skills, abilities and potentials for improvement of the individual.

\*\*\*\*\*

**§ 6201.13. Intake services.**

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(b) The condition and circumstances of each individual presumed to require service shall be thoroughly assessed before a disposition is made of his referral.

(1) If it is determined after the assessment that the individual does not currently require further service from the base service unit, the presenting problem, the results of the assessment and the disposition of the case—alternative referral or recommendation—shall be recorded on Form [MH/MR] MH/ID 10, Intake and Proposed Service Plan.

(2) If it is determined after assessment that the person requires service, he shall be provided with coordinated services necessary to identify the presence of [mental retardation] an intellectual disability, its cause and complications, and the extent to which [mental retardation] the intellectual disability limits or is likely limit the individual's daily living and work activities.

(c) Assessment services shall include a systematic appraisal of the findings in terms of pertinent physical, psychological, vocational, educational, cultural, social, economic,

legal, environmental and other factors of the [mentally retarded] person with an intellectual disability and his family for all of the following:

\*\*\*\*\*

(d) Each program service authorized shall have a service objective in keeping with [each mentally retarded person's] the personal development goal of the person with an intellectual disability; this goal shall be the basis for individualized life management planning.

(1) This information shall be recorded on the Intake and Proposed Service Plan, Form [MH/MR] MH/ID 10, along with a listing of the counseling, follow-along, and other services to be provided within a specified period of time in coordinated association with the program service immediately authorized.

\*\*\*\*\*

(3) In all cases, the [mentally retarded person's] family of the person with an intellectual disability; the social, economic, cultural, educational, vocational, legal and environmental circumstances affecting him; and his physical and psychological condition shall be considered essential aspects of the life management plan.

#### **§ 6201.14. Aftercare services.**

(a) Aftercare services shall be available to prevent unnecessary and prolonged institutionalization and to facilitate the return of persons to their homes or communities. These services shall be designed to enable persons [who are mentally retarded] with an

intellectual disability to achieve their maximum potential for self-care, self-support, self-sufficiency and social competence.

\*\*\*\*\*

**CHAPTER 6210. PARTICIPATION REQUIREMENTS FOR THE INTERMEDIATE  
CARE FACILITIES FOR THE [MENTALLY RETARDED] INTELLECTUAL  
DISABILITY PROGRAM**

**§ 6210.1. Purpose.**

The purpose of this chapter is to specify the requirements for State operated and nonState operated [ICFs/MR] ICFs/ID to receive payment for services through the MA Program.

**§ 6210.2. Applicability.**

(a) This chapter applies to State operated and nonState operated [ICFs/MR] ICFs/ID.

\*\*\*\*\*

(c) Section 6210.63(1) (relating to diagnosis of [mental retardation] an intellectual disability) does not apply to ICFs/ORC.

\*\*\*\*\*

(e) If a provision specified in this chapter is inconsistent with Chapter 6211 (relating to allowable cost reimbursement for nonState operated intermediate care facilities for [the mentally retarded] individuals with an intellectual disability), Chapter 6211 prevails.

### **§ 6210.3. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

\*\*\*\*\*

*[ICF/MR—Intermediate care facility for the mentally retarded] ICF/ID—individuals with an intellectual disability (facility)*—A State operated or nonState operated facility, licensed by the Department in accordance with Chapter 6600 (relating to intermediate care facilities for [the mentally retarded] individuals with an intellectual disability), to provide a level of care specially designed to meet the needs of persons who [are mentally retarded] have an intellectual disability, or persons with related conditions, who require specialized health and rehabilitative services; that is, active treatment.

\*\*\*\*\*



### **§ 6210.11. Payment.**

(a) The MA Program provides payment for intermediate care for [the mentally retarded] an individual with an intellectual disability provided to eligible recipients by providers enrolled in the MA Program.

(b) Payment for services is made in accordance with this chapter, Chapter 1101 (relating to general provisions), HIM-15, the Medicaid State Plan, Chapter 6211 (relating to allowable cost reimbursement for nonState operated intermediate care facilities for [the mentally retarded] individuals with an intellectual disability) and the Department's "Cost Apportionment Manual for State Mental Hospitals and [Mental Retardation] Intellectual Disability Centers" for State operated [ICFs/MR] ICFs/ID.

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### **§ 6210.13. Licensure.**

[ICFs/[MR] ICFs/ID shall be licensed by the Department in accordance with Chapter 6600 (relating to intermediate care facilities for [the mentally retarded] individuals with an intellectual disability).

\*\*\*\*\*

### **§ 6210.21. Categorically needy and medically needy recipients.**

Categorically needy and medically needy recipients are eligible for [ICF/MR] ICF/ID subject to the conditions specified in this chapter, Chapters 1101 and 6211 (relating to

general provisions; and allowable cost reimbursement for nonState operated intermediate care facilities for [the mentally retarded] individuals with an intellectual disability).

**§ 6210.22. State Blind Pension recipients.**

State Blind Pension recipients are not eligible for [ICF/MR] ICF/ID under the MA Program. Blind and visually impaired individuals are eligible for [ICF/MR] ICF/ID services if they qualify as categorically or medically needy recipients.

\*\*\*\*\*

**§ 6210.32. Budgets and cost reports for State operated facilities.**

(a) State operated [ICFs/MR] ICFs/ID shall submit budgets to the Department's Office of [Mental Retardation] Developmental Programs.

(b) State operated [ICFs/MR] ICFs/ID shall submit cost reports to the Department's Bureau of Financial Operations.

**§ 6210.33. Budgets and cost reports for nonState operated facilities.**

(a) NonState operated [ICFs/MR] ICFs/ID shall submit cost reports or a budget, if a waiver is granted in accordance with Chapter 6211 (relating to allowable cost reimbursement for nonState operated intermediate care facilities for [the mentally retarded] individuals with an intellectual disability), to the Department's Office of [Mental Retardation] Developmental Programs.

\*\*\*\*\*

**§ 6210.34. Approved funding level.**

The Department's Office of [Mental Retardation] Developmental Programs is responsible for establishing an approved funding level for nonState operated [ICFs/MR] ICFs/ID.

**§ 6210.35. Ongoing provider responsibilities.**

\*\*\*\*\*

(c) A cost report shall be filed with the Department's Office of [Mental Retardation] Developmental Programs for nonState operated [ICFs/MR] ICFs/ID and with the Department's Bureau of Financial Operations for State operated [ICFs/MR] ICFs/ID within the time limit specified in § 6210.77 (relating to cost finding) if the facility is continuing its participation in the MA Program or within the time limit specified in § 6210.92 (relating to final reporting) if the facility is sold, transferred by merger or consolidation, terminated or withdraws from participation in the MA Program.

\*\*\*\*\*

**§ 6210.42. Certification of initial need for care.**

(a) A physician shall certify in writing in the medical record that the applicant or recipient needs intermediate care for [the mentally retarded] individuals with an intellectual disability.

\*\*\*\*\*

(c) The certification specified in subsections (a) and (b) shall be signed and dated not more than 30 days prior to either the admission of an applicant or recipient to a facility, or, if an individual applies for assistance while in a facility before the Department authorizes payment for intermediate care for [the mentally retarded] individuals with an intellectual disability.

**§ 6210.43. Recertification of continued need for care.**

(a) A physician, a physician's assistant under the supervision of a physician or a nurse practitioner, or clinical nurse specialist shall enter into the recipient's medical record a signed and dated statement that the recipient continued to need intermediate care for [the mentally retarded] individuals with an intellectual disability.

(b) In a nonState operated ICF/[MR]ID, the person who certifies the need for continued care specified in subsection (a), may not be an employee of the facility but shall work in collaboration with the recipient's physician.

**§ 6210.44. Evaluations.**

(a) Before admission to a facility, or before authorization for payment, an interdisciplinary team of health professionals shall make a comprehensive medical, social and psychological evaluation of each applicant's or recipient's need for intermediate care for [the mentally retarded] individuals with an intellectual disability.

The psychological evaluation shall be completed within 3 months prior to admission.

\*\*\*\*\*

**§ 6210.46. Plan of care.**

Before admission to an [ICF/MR] ICF/ID, or before authorization for payment, the attending physician shall establish a written plan of care for each applicant or recipient. The plan of care shall indicate time-limited and measurable care objectives and goals to be accomplished and who is to give each element of care.

\*\*\*\*\*

**§ 6210.61. Eligibility for an [ICF/MR] ICF/ID level of care.**

An applicant or recipient shall receive active treatment to be determined eligible for an [ICF/MR] ICF/ID level of care. The [ICF/MR] ICF/ID Program shall have only one level of care. The level of care determination is based upon the developmental needs of each applicant or recipient.

**§ 6210.62. Level of care criteria.**

(a) There are three fundamental criteria which shall be met prior to an applicant or recipient qualifying for an [ICF/MR] ICF/ID level of care. The [ICF/MR] ICF/ID level of care shall be indicated only when the applicant or recipient:

\*\*\*\*\*

(2) Has a diagnosis of [mental retardation] an intellectual disability.

(3) Has been recommended for an [ICF/MR] ICF/ID level of care based on a medical evaluation.

(b) A physician shall certify the [ICF/MR] ICF/ID level of care on a form specified by the Department and that [ICF/MR] ICF/ID services are needed, for each applicant and current [ICF/MR] ICF/ID resident. Before the facility requests payment from MA, the certification shall have been made at the time of admission, or at the time a resident applied for assistance while in an [ICF/MR] ICF/ID.

\*\*\*\*\*

**§ 6210.63. Diagnosis of [mental retardation] an intellectual disability.**

The facility shall document the applicant's or recipient's diagnosis of [mental retardation] an intellectual disability by meeting the following requirements:

\*\*\*\*\*

(2) A qualified [mental retardation] intellectual disability professional as defined in 42 CFR 483.430 (relating to condition of participation: facility staffing) shall certify that the applicant or recipient has impairments in adaptive behavior as provided by a standardized assessment of adaptive functioning which shows that the applicant or recipient has one of the following:

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**§ 6210.64. Medical evaluation.**

Applicants or recipients meeting the criteria for [ICF/MR] ICF/ID level of care shall have a medical evaluation completed by a licensed physician not more than 60 days prior to admission to an [ICF/MR] ICF/ID or before authorization for payment. The physician shall recommend the applicant or recipient for an [ICF/MR] ICF/ID level of care based on the medical evaluation.

**§ 6210.65. Recertification.**

(a) Recertification shall be on a form specified by the Department and based on the applicant's or recipient's continuing need for an [ICF/MR] ICF/ID level of care, progress toward meeting plan objectives, the appropriateness of the plan of care and consideration of alternate methods of care.

(b) Recertification of need for an [ICF/MR] ICF/ID level of care shall be made at least once every 365 days after the initial certification.

**§ 6210.71. Limitations on payment for reserved bed days.**

\*\*\*\*\*

(b) For each hospitalization, a recipient receiving intermediate care for [the mentally retarded] individuals with an intellectual disability, except for a recipient in a State operated [ICF/MR] ICF/ID, is eligible for a maximum 15 consecutive reserve bed days for hospital leave. The Department will pay a facility at the interim per diem rate on file with the Department for a hospital reserve bed day. Subject to this limit, a facility may

include hospital reserve bed days in its census as client days, and costs associated with hospital reserve bed days shall be included in the facility's cost report. A reserve bed will be available for the recipient upon the recipient's return to the facility.

\*\*\*\*\*

(e) A recipient receiving intermediate care for [the mentally retarded] individuals with an intellectual disability is eligible for a maximum of 75 days per calendar year for therapeutic leave outside the facility.

\*\*\*\*\*

**§ 6210.72. Limitations on payment for prescription drugs.**

The Department's interim per diem rate for nonState operated [ICFs/MR] ICFs/ID does not include prescription drugs. Prescribed drugs for categorically needy recipients are reimbursable directly to a licensed pharmacy according to regulations contained in Chapter 1121 (relating to pharmaceutical services).

\*\*\*\*\*

**§ 6210.75. Noncompensable services.**

Payment will not be made for:

\*\*\*\*\*



(5) Services rendered by a provider that do not meet the conditions for payment established by this chapter. Chapters 1101 and 6211 (relating to general provisions; and allowable cost reimbursement for nonState operated intermediate care facilities for [the mentally retarded] individuals with an intellectual disability).

\*\*\*\*\*

**§ 6210.76. Cost reporting.**

\*\*\*\*\*

(b) The time frame for submission of cost reports may be extended for an additional 30 days with written approval from the Department's Office of [Mental Retardation] Developmental Programs for nonState operated [ICFs/MR] ICFs/ID and from the Department's Bureau of Financial Operations for State operated [ICFs/MR] ICFs/ID.

\*\*\*\*\*

**§ 6210.78. Allowable costs.**

(a) For State operated [ICFs/MR] ICFs/ID, allowable costs shall be determined by the Department's "Cost Apportionment Manual for State Mental Hospitals and [Mental Retardation] Intellectual Disability Centers" and HIM-15.

(b) For nonState operated [ICFs/MR] ICFs/ID, allowable costs shall be determined based on Chapter 6211 (relating to allowable cost reimbursement for nonState operated

intermediate care facilities for [the mentally retarded] individuals with an intellectual disability) and HIM-15.

(c) State operated [ICFs/MR] ICFs/ID shall be reimbursed actual allowable costs under the Statewide Cost Allocation Plan and Medicare principles, subject to MA regulations.

(d) NonState operated [ICFs/MR] ICFs/ID shall be reimbursed actual, allowable reasonable costs under Chapter 6211 and other applicable MA regulations.

**§ 6210.79. Setting interim per diem rates.**

(a) For State operated [ICFs/MR] ICFs/ID, interim per diem rates shall be established by the Department based on the latest adjusted reported costs and approved budgets.

(b) For nonState operated [ICFs/MR] ICFs/ID, interim per diem rates shall be established by the Department based on the latest adjusted cost report plus an inflationary factor, or a submitted budget if a waiver is granted in accordance with Chapter 6211 (relating to allowable cost reimbursement for nonState operated intermediate care facilities for [the mentally retarded] individuals with an intellectual disability).

\*\*\*\*\*

**§ 6210.81. Upper limits of payment.**

(a) The upper limits of payment for State operated [ICFs/MR] ICFs/ID are the full allowable costs as specified in the Department's "Cost Apportionment Manual for State Mental Hospitals and [Mental Retardation] Intellectual Disability Centers" and HIM-15.

(b) The upper limits of payment for nonState operated [ICFs/MR] ICFs/ID are the lower of costs or the total projected operating cost or if a waiver is granted under Chapter 6211 (relating to allowable cost reimbursement for nonState operated intermediate care facilities for [the mentally retarded] individuals with an intellectual disability) an approved budget level as specified in Chapter 6211.

\*\*\*\*\*

**§ 6210.93. Auditing requirements related to cost reports.**

(a) Except in cases of provider delay or delay requested by State or Federal agencies investigating possible criminal or civil fraud, the Department will conduct either a field audit or desk review of each cost report within 1 year of the latter of its receipt in acceptable form, as defined in § 6210.78 (relating to allowable costs) or, if the facility participates in Medicare and has reported home office costs to the Department on its cost report, the Department's receipt of the facility's Medicare home office audit, to verify, to the extent possible, that the facility has complied with:

\*\*\*\*\*

(3) The limits established in Chapter 6211 (relating to allowable cost reimbursement for nonState operated intermediate care facilities for [the mentally retarded] individuals with an intellectual disability).

(4) The Department's "Cost Apportionment Manual for State Mental Hospitals and [Mental Retardation] Intellectual Disability Centers" for State operated [ICFs/MR] ICFs/ID.

\*\*\*\*\*

(6) The Department's cost allocation plan for State operated [ICFs/MR] ICFs/ID.

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**§ 6210.101. Scope of claims review procedures.**

Claims submitted for payment under the MA Program are subject to the utilization review procedures established in Chapter 1101 (relating to general provisions). In addition, the Department will perform the reviews specified in this section and § § 6210.102—6210.109 for controlling the utilization of [ICF/MR] ICF/ID services.

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**§ 6210.108. Facility utilization review.**

\*\*\*\*\*

(b) If the utilization review committee of a facility finds that the continued stay of a recipient at a specific level of care is not needed, the committee shall, within 1 working day of its decision, request additional information from the recipient's qualified [mental retardation] intellectual disability professional, who shall respond within 2 working days.

A physician member of the committee, in cases involving a medical determination, or the utilization review committee, in cases not involving a medical determination, shall review the additional information and make the final recommendation. If the additional information is not received within 2 working days, the committee's decision will be deemed final.

(c) The utilization review committee shall send written notice of adverse final decisions on the need for continued stay to:

(1) The facility administrator.

(2) The qualified [mental retardation] intellectual disability professional of the recipient.

\*\*\*\*\*

**CHAPTER 6211. ALLOWABLE COST REIMBURSEMENT FOR  
NON-STATE OPERATED INTERMEDIATE CARE FACILITIES  
FOR [PERSONS] INDIVIDUALS WITH AN INTELLECTUAL DISABILITY**

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**§ 6211.1. Purpose.**

This [subchapter] chapter specifies the requirements for MA reimbursement and allowable costs for non-State operated intermediate care facilities for [persons] individuals with an intellectual disability.

**§ 6211.2. Applicability.**

\*\*\*\*\*

(b) The following chapters apply to non-State operated intermediate care facilities for persons with an intellectual disability and non-State operated intermediate care facilities for persons with other related conditions: Chapters 1101 and 6210 (relating to general provisions; and participation requirements for the intermediate care facilities for the [mentally retarded] intellectual disability program).

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#### **§ 6211.45. Disclosure.**

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(b) If the facility is a controlling organization, disclosure of the affiliate existence and its relationship to the established intermediate care facility for [the mentally retarded] individuals with an intellectual disability shall be made, including the nature of any financial transaction between the affiliate and the facility.

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#### **§ 6211.78. Staff development and training costs.**

(a) Costs associated with staff development and training costs are allowable if the training and development is associated with the individual program goals and objectives of the intermediate care facilities for the [mentally retarded] intellectual disability program.

(b) Staff development and training costs are allowable in accordance with intermediate care facilities for [the mentally retarded] individuals with an intellectual disability certification requirements.

#### **§ 6211.79. Depreciation allowance.**

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(n) The reasonable cost of depreciation will be recognized for the construction and renovation of buildings to meet applicable Federal, State or local laws and building

codes for intermediate care facilities for [the mentally retarded] individuals with an intellectual disability. Costs are allowable if the facility has either a certificate of need or a letter of nonreviewability for the project from the Department of Health under subsection (r)(1) and (2). In accordance with Federal and State regulations, the facility shall submit to the Department, the certificate of need or letter of nonreviewability, as appropriate, or the provider will not receive reimbursement for interest on capital indebtedness, depreciation and operating expenses.

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(q) Effective July 1, 1984, for non-State [ICF/MR] ICF/ID providers, the funding of depreciation is recommended so that funds may be available for the acquisition and future replacement of assets by the facility. To qualify for treatment as a funded depreciation account, the funds shall be clearly designated in the provider's records as funded depreciation accounts and shall be maintained in accordance with the provisions of HIM-15.

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#### **§ 6211.87. Return on equity.**

(a) The Department will not contribute to a return on equity for proprietary intermediate care facility for [the mentally retarded] individuals with an intellectual disability programs.

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**CHAPTER 6250. COMMITMENT AND ADMISSION PROCEDURES  
FOR [MENTALLY RETARDED PERSONS] INDIVIDUALS WITH AN INTELLECTUAL  
DISABILITY**

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**§ 6250.1. Purpose.**

The purpose of this chapter is to specify commitment and admission procedures for [mentally retarded persons] individuals with an intellectual disability.

**§ 6250.2. Applicability.**

This chapter applies to State [Mental Retardation] Intellectual Disability Centers and [Mental Retardation] Intellectual Disability Units at State Mental Health Hospitals.

**§ 6250.3. Legal base.**

The legal authority for this chapter is *Goldy v. Beal* (C. A. No. 75—191, M. D. Pa., October 28, 1976) and section 201(2) of the Mental Health and [Mental Retardation] Intellectual Disability Act of 1966 (50 P. S. § 4201(2)).

**INVOLUNTARY COMMITMENT PROCEDURES**

**§ 6250.11. Determination.**

Until new legislation is enacted, and becomes effective, commitments of [mentally retarded] adults with an intellectual disability under section 406 of the Mental Health and

[Mental Retardation] Intellectual Disability Act of 1966 (50 P. S. § 4406) may be processed provided that the Secretary of [Public Welfare] Human Services, his agents and assigns, those under his direction, and all facility directors may not receive a person committed under section 406 of the Mental Health and [Mental Retardation] Intellectual Disability Act of 1966 (50 P. S. § 4406) except upon judicial determination that the standards in this section are met: A person shall be determined to be [a mentally retarded person] an individual with an intellectual disability in need of [residencey] residency placement only upon the following findings:

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(3) The person, because of his [retardation] intellectual disability, presents a substantial risk of physical injury to himself or physical debilitation as demonstrated by behavior within 30 days of the petition which shows that he is unable to provide for, and is not providing for his most basic need for nourishment, personal and medical care, shelter, self-protection and safety and that provision for such needs is not available and cannot be developed or provided in his own home or in his own community without residential placement.

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#### **§ 6250.21. Admission procedures.**

(a) All juveniles aged 18 and younger to be admitted to an institution must be referred from a recognized medical facility, [mental retardation] intellectual disability therapist, pediatrician, general physician, or psychologist.

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**RIGHTS OF CHILDREN UNDER  
SECTIONS 402 AND 403 OF THE MENTAL HEALTH  
AND [MENTAL RETARDATION] INTELLECTUAL DISABILITY ACT OF 1966**

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**SUBPART D. NONRESIDENTIAL AGENCIES/FACILITIES/SERVICES**

**ARTICLE II. FUNDING**

**CHAPTER 6350. FAMILY RESOURCE SERVICES**

**§ 6350.1. Introduction.**

The Family Resource Services (FRS) Program is designed to offer a variety of services to the family which has a [mentally retarded] family member with an intellectual disability living within the community, as well as to [mentally retarded persons] individuals with an intellectual disability who reside in community settings. The intent of the FRS Program is to reduce the need for institutionalization. The primary purpose of the FRS Program is:

(1) To provide adequate resources within the community to enable the family with a [retarded] family member with an intellectual disability to maintain that member at home with minimal stress or disruption to the family unit.

(2) To provide adequate resources within the community to enable the [mentally retarded] individual with an intellectual disability to remain in a family context in a community setting, thus leading as normal a life as possible.

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### **§ 6350.3. Applicability.**

This chapter applies to county mental health and [mental retardation] intellectual disability programs.

### **§ 6350.4. Legal base.**

The legal authority for this chapter is sections 201, 301, 305, 506 and 509 of the Mental Health and [Mental Retardation] Intellectual Disability Act of 1966 (50 P. S. § § 4201, 4301, 4305, 4506 and 4509).

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### **§ 6350.5. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise.

*Family*—A family exists in the following situations:

(i) Natural or adoptive parents who provide care for their [retarded] child or adult with an intellectual disability in the home of the parents.

(ii) Foster parents who care for their [retarded] child or adult with an intellectual disability in the home of the foster parents.

(iii) Related or unrelated persons who provide care for a [retarded] child or adult with an intellectual disability within their home.

*Family aid*—A “sitter-type” service offered to parents who need a person to care for their [retarded] family member with an intellectual disability for a few hours at a time.

*Family education training*—Programs offered to assist parents of a [retarded] child or adult with an intellectual disability, [retarded] individual with an intellectual disability who are parents, spouses and siblings or other family members in dealing appropriately with a family member [who is mentally retarded] with an intellectual disability. This may include education/training in family dynamics, parent-child relationships, behavior management, genetic counseling, family planning, or other type of program designed to maintain the family as a cohesive unit.

*Homemaker services*—Homemakers may be available to perform essential household duties when family members or individuals are unable to manage such tasks effectively. This type of service may be to maintain continuity of care of [a mentally retarded person] an individual with an intellectual disability within the home during a family illness or similar circumstance or to provide training in proper home management for the [retarded person] individual with an intellectual disability or his family or legal guardian with whom he resides.

*Independent residence*—[Mentally retarded persons] Individuals with an intellectual disability who are residing in the community, usually in their own home or apartment, who are able to pay for their own room, board, and clothing-type expenses.

*Individual*—A child or adult who is deemed [mentally retarded] to have an intellectual disability by the county [mental health/mental retardation] mental health/intellectual disability administrator responsible for the county in which the individual resides. The evaluation process for [mental retardation] an intellectual disability shall be in compliance with the Mental Health and [Mental Retardation] Intellectual Disability Act of 1966 (50 P. S. § § 4101, 4102, 4201—4203, 4301—4305, 4401—4426, 4501—4512, 4601—4606 and 4701—4704).

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*In-home therapy*—This service insures that the [retarded] family member with an intellectual disability will receive necessary treatment or therapy even when he is homebound. These therapies include but are not necessarily limited to the following:

*Recreation/leisure time activities*—Services that allow the [retarded person] individual with an intellectual disability to experience normal community leisure time activities and increase his ability to participate more independently in similar activities.

*Respite care*—A temporary residence available to a [retarded person] individual with an intellectual disability when his family or legal guardian with whom he is residing is experiencing stress, personal crisis, or a need for a vacation.

*Special innovative services*—All services/opportunities considered for Family Resource Services (FRS) funding under this category must have written approval by the appropriate Department regional office prior to implementation. The expenditures for all services/opportunities funded under this category by a given County [Mental Health/Mental Retardation (MH/MR)] Mental Health/Intellectual Disability (MH/ID) Office may not exceed 10% of the total FRS allocation for that county office.

*State centers*—Residential facilities owned and operated by the Department for the care and treatment of [the mentally retarded] individuals with an intellectual disability.

## **PROGRAM COSTS**

### **§ 6350.11. Funding.**

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(d) FRS funds may not be utilized to cover the direct costs of staff salaries; however, an agency which is program-funded by the County [Mental Health/Mental Retardation (MH/MR)] Mental Health/Intellectual Disability (MH/ID) Office to provide FRS-eligible services may include the costs of staff salaries in its charges to the County [MH/MR] MH/ID Office for the provision of those services for which it is program-funded.

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**§ 6350.13. Collection of costs.**

Payment for and collection of costs for Family Resource Services (FRS) Program services shall be made with county procedures consistent with section 506 of the [Mental Health/Mental Retardation] Mental Health/Intellectual Disability Act of 1966 (50 P. S. § 4506).

**§ 6350.14. Charges.**

The charges to clients and legally responsible relatives shall not exceed the verified going rate for similar services to [nonhandicapped] persons without a disability. In those situations in which no local prevailing fee exists, costs of such services may be negotiated between the County [Mental Health/Mental Retardation] Mental Health/Intellectual Disability [(MH/MR)] (MH/ID) Program and the service provider. The difference between the actual cost and liability, if any, shall be borne by the County [MH/MR] MH/ID Program.

**§ 6350.15. Liability insurance for service providers.**

Liability insurance for providers of services funded through the Family Resource Services (FRS) Program is handled under current Department policy which covers the issue of liability insurance for the provision of community-based mental health and [mental retardation] intellectual disability services.



**§ 6350.16. Waiver option.**

(a) The Department's regional [commissioners for mental retardation] directors for the office of developmental programs may, in special situations, waive specific provisions within this chapter which govern the Family Resource Services (FRS) Program when an identified need for an FRS-eligible service cannot be met because of a restriction imposed by this chapter. This waiver option does not apply to Chapter 4305 (relating to liability for community mental health and [mental retardation] intellectual disability services).

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(c) The County [Mental Health/Mental Retardation (MH/MR)] Mental Health/Intellectual Disability (MH/ID) Administrator shall submit a written request to the appropriate Department's regional commissioner for [mental retardation] intellectual disability to have a specific provision of this chapter waived for a specific situation.

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(f) The Department's regional commissioner for [mental retardation] the office of developmental programs shall submit to the county mental health and [mental retardation] intellectual disability administrator written notification of the approval or disapproval of the request for a waiver prior to the implementation of the service.

(g) Copies of requests and decisions related to the waiver option shall be submitted by the regional commissioner] to the central office of [mental retardation] developmental programs for review.

## SERVICE AREAS

### § 6350.21. Respite care.

(a) The Family Resource Services (FRS) funds shall be made available for respite care services at the following places:

(1) The [retarded person's] individual's with an intellectual disability own home or place of residence.

(2) The home of a family that the county mental health and [mental retardation] intellectual disability office has approved. The "host" family may offer respite care to no more than two [mentally retarded persons] individuals with an intellectual disability at one time.

(3) If the [retarded person] individual with an intellectual disability is in need of medical care and supervision, an approved medical facility such as a general hospital or nursing home may be utilized. For a facility to be used for respite care, the county mental health and [mental retardation] intellectual disability office or its designate shall document the [retarded person's] individual's with an intellectual disability medical needs, and the county mental health and [mental retardation] intellectual disability administrator shall

give approval of the [retarded person's] individual's with an intellectual disability placement in the medical facility.

(b) FRS funds may not be used to pay for respite care in the following situations:

(1) State centers for [the mentally retarded] individuals with an intellectual disability. The county mental health and [mental retardation] intellectual disability program is not responsible for paying for the care of [retarded persons] individuals with an intellectual disability who are permanently or temporarily residing in state centers.

(2) County residential facilities which are not licensed by Chapter 6400 (relating to community [residential mental retardation facilities] homes for individuals with an intellectual disability).

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(d) Respite care is provided only for the [retarded] individual with an intellectual disability family member and does not include caring for [nonretarded] siblings who do not have an intellectual disability.

#### **§ 6350.22. Family aid.**

(a) This service shall provide relief lasting less than 24 hours in any one time period. This resource is available to families who previously have not been able to obtain "sitter" type service because the family member [is mentally retarded] has an intellectual disability.

(b) Each family aide shall be approved by the county mental health and [mental retardation] intellectual disability office after successful completion of a training program before working as a family aide.

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(4) The training program must be approved by the county mental health and [mental retardation] intellectual disability office.

(c) If the county mental health and [mental retardation] intellectual disability office contracts with another agency to provide this service, the following applies:

(1) The agency shall provide a training program approved by the County [MH/MR] MH/ID Office.

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(e) A list of approved aides will be kept in the County [MH/MR] MH/ID Office or its designee, or both.

(f) Families must contact the County [MH/MR] MH/ID Office, Base Service Unit, or the contracting agency to request the service. Unless the County [MH/MR] MH/ID Office or its designate has made the appropriate arrangements, the family aide will not be eligible to receive payment with FRS funds.

(g) The family aide will be responsible for the care of every family member left in his charge. If any siblings are to be cared for other than the [retarded person] individual with

an intellectual disability, the aide must be so advised before being given the assignment. The County [MH/MR] MH/ID Office or its designate will determine the additional charge, if any, for the care of other siblings.

(h) At the end of each care period, the aide must submit to the County [MH/MR] MH/ID Office or its designate a written report which should include remarks about any significant events, incidents, and the like, that occurred during the care period and which may prove beneficial to other aides when and if the family receives FRS in the future. Such reports must be treated within the context of the rules of confidentiality and privacy so as to protect the rights of the service recipients.

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(k) A recommended maximum of four sessions should be allowed per family per month. This may be adjusted by the County [MH/MR] MH/ID Office based on individual needs and resources at a given time.

(l) This service shall not take the place of day programming for the [retarded person] individual with an intellectual disability.

(m) Family aid shall not be provided daily unless authorized in writing by the County [MH/MR] MH/ID Administrator.

(n) Family aid can be provided in the [mentally retarded person's] individual's with an intellectual disability own home or place of residence, or the home of a family that the County [MH/MR] MH/ID Office has approved.

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**§ 6350.23. Homemaker services.**

(a) The primary functions of homemaker services are to provide adult care and supervision for [mentally retarded persons] individuals with an intellectual disability and other members of the family within the home when the adults regularly responsible are unable to provide them, and to provide training in proper home management. The homemaker not only provides personal care but also insures that regular daily homemaking and housekeeping tasks are performed. These services are also available to [mentally retarded] adults with an intellectual disability who are living independently in the community.

(b) The homemaker's responsibilities may include, but are not limited to, any combination of the following:

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(2) Personal care of dependent children—not limited to the [retarded] family member with an intellectual disability.

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(4) Instructing the family members or the [mentally retarded] individual with an intellectual disability, or both, in how to perform homemaking duties more effectively and efficiently.

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(e) The homemaker must be assigned for a specific period of time for specific duties and responsibilities:

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(2) All requests for extension must be evaluated by the Base Service Unit and approved in writing by the County [Mental Health/Mental Retardation (MH/MR)] Mental Health/Intellectual Disability (MH/ID) Administrator with a copy to the regional [mental retardation] commissioner for the office of developmental programs.

(3) For an extension after 6 weeks from the beginning of the service, the County [MH/MR] MH/ID Office must document the lack of feasibility of other alternatives. Specific goals must be determined, and reasonable time limits necessary to meet them must be established.

(f) A homemaker is not to be used for babysitting purposes only. This precludes the assignment of a homemaker, on an ongoing basis, to care for [a retarded person] an individual with an intellectual disability while the adult family members work. A family aide may be assigned intermittently to a family for that purpose. Neither service should take the place of a "day program" for the [retarded person] individual with an intellectual disability.

**§ 6350.24. Inhome therapy.**

(a) This service should be available when the [retarded] family member with an intellectual disability must receive therapy or a nonpublic school program in his own home. It insures the family that the [retarded] family member with an intellectual disability will receive important treatment or therapy even in the event that he is "homebound." This service is primarily directed to those [retarded persons] individuals with an intellectual disability who [are multihandicapped or medically involved] have multiple disabilities or significant medical needs, or both. Except in unusual circumstances, it should not be utilized when the [retarded person] individual with an intellectual disability is capable of leaving his home to receive such needed therapy.

(1) Visiting nurses/related inhome medical therapy is an acceptable inhome therapy service. This service may include professional or paraprofessional personnel who perform such tasks as:

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(viii) Caring for the convalescing [retarded person] individual with an intellectual disability after he has been hospitalized.

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(4) The physician's written prescription must be available to the Base Service Unit and the County [Mental Health/Mental Retardation (MH/MR)] Mental Health/Intellectual Disability (MH/ID) Office.

(b) Physical/occupational therapy services may be vital to [the physically handicapped, mentally retarded person] individual with an intellectual disability and a physical disability whose family, because of these [handicaps] disabilities, will need additional assistance in physical care and in basic self-care skills development. This service not only will help the [retarded person] individual with an intellectual disability to be self-sufficient but will also provide relief to other family members.

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(4) The written therapy prescription and program plan must be available to the Base Service Unit and the County [MH/MR] MH/ID Office.

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(6) If [a mentally retarded person] an individual with an intellectual disability is of school age, the public school system should provide the therapy service when it is a part of the person's individual prescriptive educational plan.

(c) Speech/language therapy/audiology services are acceptable Family Resource Service (FRS) Programs.

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(2) To be eligible, the [retarded person] individual with an intellectual disability must have been examined by a certified or certification-eligible audiologist for possible hearing deficiencies or a certified or certification-eligible speech therapist who have recommended a formal speech/language/audiology program. The ensuing program must be professionally prescribed and directed.

(3) A written program, including short- and long-range goals, must be available to both the Base Service Unit and the County [MH/MR] MH/ID Office.

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(5) If the [retarded person] individual with an intellectual disability is of school age, the public school system should provide this service.

(d) Visual/mobility therapy (training) service may be vital to the [severely visually impaired, mentally retarded person who, because of these handicaps] individual with an intellectual disability and a severe visual impairment, who because of these disabilities, is unable to navigate around his place of residence or in the community.

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(2) To be eligible, the [retarded person] individual with an intellectual disability must have been examined by a physician to determine the extent of visual impairment and to document the need for visual/mobility therapy (training).

(3) A trained mobility specialist/instructor must evaluate the [visually impaired, mentally retarded person] individual with an intellectual disability and a visual impairment and develop a written visual/mobility training program plan specific to the service recipient.

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(5) The written therapy program plan, including short- and long-range goals, must be available to the Base Service Unit and the County [MH/MR] MH/ID Office.

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(7) If [a mentally retarded person] an individual with an intellectual disability is of school age, the public school system should provide this service.

(e) Vocational therapy consists of the provision of vocationally oriented services in the home of a [mentally retarded person] individual with an intellectual disability to help the [retarded person] individual with an intellectual disability become more self-sufficient, progress to an out-of-home setting, or maintain vocational skills previously acquired.

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(2) For eligible persons to participate in home vocational therapy, the following procedures must be followed:

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(iii) The written program must be available to the Base Service Unit and the County [MH/MR] MH/ID Office.

(3) Homebound employment may be funded for an initial interval of 2 months.

Extensions, in intervals of 2 months, or less, may also be funded, provided that a medical statement indicates the person may not yet return to the vocational program in the community. Homebound employment may not be utilized beyond the point when the [retarded] individual with an intellectual disability is capable of leaving his home to participate in an out-of-home vocational program.

(4) There should be evidence that the family supports the homebound employment program in terms of available work space and time in the home but does not do the work for the [retarded] individual with an intellectual disability.

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(i) The [retarded person] individual with an intellectual disability must be evaluated initially by a qualified vocational evaluator who recommends an inhome vocational therapy program.

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(iv) Except in unusual circumstances, as determined by the County [MH/MR] MH/ID Office, there should be evidence within the individual's program plan that the inhome program will result in the individual eventually entering an out-of-home vocationally oriented setting.

(v) This written program plan must be available to the Base Service Unit and the County [MH/MR] MH/ID Office.

(vi) Quarterly status reports must be submitted to the Base Service Unit and County [MH/MR] MH/ID Office as part of the program plan implementation.

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(f) Recreational therapy/therapeutic recreation is for [mentally retarded persons] individuals with an intellectual disability who, due to the severity of their mental or physical handicap, or both, may be deprived of having their minimal socio-recreative needs met because of their homebound state and, consequently, may be showing signs of psycho-social regression, or physical atrophy, or both.

(1) Inhome recreational therapy services may only be made available to those [mentally retarded persons] individuals with an intellectual disability who are "homebound."

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(3) Inhome recreational therapy services may be paid for through the FRS Program provided that the services result from a goal-oriented recreational therapy plan for the individual [mentally retarded] service recipient with an intellectual disability. This program plan must include the following:

(i) A statement which defines the needs of the [retarded person] individual with an intellectual disability for inhome recreational therapy service.

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(4) The written plan for the recreational therapy program must be available to the Base Service Unit and the County [MH/MR] MH/ID Office.

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(g) Professional inhome dental hygiene services may be made available to those [mentally retarded persons] individuals with an intellectual disability who because of the mental and/or physical [handicaps] disabilities are "homebound."

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(2) The dental hygiene program must be approved by the County [MH/MR] MH/ID Office.

(3) A copy of the dental hygiene treatment plan/program must be available to the Base Service Unit and the County [MH/MR] MH/ID Office.

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#### **§ 6350.25. Family education/training.**

(a) Family education/training services may be made available to parents of a [retarded] child or adult with an intellectual disability, to [retarded persons] individuals with an intellectual disability who are parents, and to spouses and siblings or other family members to assist them in dealing appropriately with a family member [who is mentally retarded] with an intellectual disability. Programs under this service may include

education/training in family dynamics, parent/child relationships, behavior management, genetic counseling, family planning, or any other type of program designed to maintain the family as a cohesive unit.

(b) Family education training services may be funded through the Family Resource Services (FRS) Program provided that they are consistent with the following criteria:

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(2) All education/training programs funded through the FRS Program must be approved by the County [Mental Health/Mental Retardation (MH/MR)] Mental Health/Intellectual Disability (MH/ID) Office.

(c) The County [MH/MR] MH/ID Administrator has the following options in providing family education/training through the FRS Program:

(1) The education/training program may be provided directly through the County [MH/MR] MH/ID Office.

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(3) The education/training program may be provided indirectly by paying on a fee-for-service basis the charges incurred by a service recipient's participation in a family education/training program approved, but not sponsored directly, by the County [MH/MR] MH/ID Office.

(d) FRS funds may be used to pay for education/training programs designed for families who have [mentally retarded] family members with an intellectual disability within the

home as well as [retarded] individuals with an intellectual disability who are parents. FRS funds may not be used to pay for inservice or staff training programs. Other resources should be utilized for those programs.

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**§ 6350.26. Recreation/leisure-time activities.**

(a) Recreation programs should allow the [retarded person] individual with an intellectual disability to experience regular community leisure-time activities, increase his ability to participate in these activities independently, and enhance his physical or psycho-social development, or both.

(b) It is important that the [retarded person] individual with an intellectual disability is given every opportunity to interact with nonrelated people in the mainstream of activity within the community. The following eligible situations are listed in order of priority and should be considered when funding recreation programs through the Family Resource Services (FRS) Program:

(1) The [retarded person] individual with an intellectual disability is integrated into regular community facilities and programs, that is, the [retarded person] individual with an intellectual disability participates in a regular program designed for [nonretarded persons] individuals without an intellectual disability.

(2) The [retarded person] individual with an intellectual disability is in a segregated program but in existing community facilities intended for the general population and



where [nonretarded people] individuals without an intellectual disability are recreating at the same time, such as, a summer recreation program designed specifically for a group of [retarded] individuals with an intellectual disability which takes place on a community playground where [nonretarded] individuals without an intellectual disability are also recreating.

(3) The [retarded person] individual with an intellectual disability is in segregated programs in existing community facilities intended for the general population but regular recreation programs are not scheduled at the same time, such as, a scout troop with membership limited to [the mentally retarded] individuals with an intellectual disability may hold its functions in a community facility during times when [nonretarded persons] individuals without an intellectual disability are not scheduled to participate in programs at the facility.

(4) Special facilities and programs within the community serving only [the mentally retarded or other handicapped persons] individuals with disabilities are used for recreation purposes, such as, a sheltered workshop which operates an evening recreation program.

(5) Segregated recreation programs are provided in isolated areas outside of the community which do not allow any socially integrative opportunities; such as, recreation programs designed for [mentally retarded persons] individuals with an intellectual disability living within the community which take place on State center grounds.

(c) The County [Mental Health/Mental Retardation (MH/MR)] Mental Health/Intellectual Disability (MH/ID) Office may arrange for or provide recreation services/opportunities which may be funded through the FRS Program preferably on a fee-for-service basis:

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(2) Private agencies or organizations [which deal] that serve only [with handicapped persons] individuals with a disability, such as, United Cerebral Palsy, [Association for Retarded Citizens] The Arc, Easter Seal, and the like, should operate FRS funded programs only when alternatives are not and cannot be readily available.

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(d) Recreation programs should be ancillary to day programs which operate daily during the week.

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(3) Day recreational services/opportunities may be provided for [retarded] adults with an intellectual disability who are currently unemployed. This provision must be secondary to full day programming.

(4) Day or evening recreational services/opportunities may be provided during periods of time in which the [retarded person] individual with an intellectual disability is on vacation from employment or school.

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(g) Each recreational program must be approved by the County [MH/MR] MH/ID Office as being therapeutic for the service recipient.

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(l) The participation of service recipients in FRS funded individual or group recreation programs must be approved by the County [MH/MR] MH/ID Office as being therapeutic for the individual service recipient.

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#### **§ 6350.27. Special innovative services.**

It is recognized that there may be instances in which a given County [Mental Health/Mental Retardation (MH/MR)] MH/ID Office may discover an unmet need for the provision of a new, innovative service/opportunity for [mentally retarded] individuals with an intellectual disability living in a community setting or for families who have a [retarded] family member with an intellectual disability living within the home, and such a service/opportunity may not be specifically defined in this chapter. Such services/opportunities may only be funded through the Family Resources Services (FRS) Program if they meet the following criteria:

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(4) The expenditures for all services/opportunities funded under this category by a given County [MH/MR] MH/ID Office may not exceed 10% of the total FRS annual allocation for the County [MH/MR] MH/ID Office.

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## SUBPART E. RESIDENTIAL AGENCIES/FACILITIES/SERVICES

### ARTICLE I. LICENSING/APPROVAL

#### CHAPTER 6400. COMMUNITY HOMES FOR INDIVIDUALS WITH [MENTAL RETARDATION] AN INTELLECTUAL DISABILITY

##### § 6400.1. Introduction.

This chapter is based on the principle of [normalization which defines the] integration and the right of the individual with [mental retardation] an intellectual disability to live a life [which] that is as close as possible in all aspects to the life which any member of the community might choose. For the individual with [mental retardation] an intellectual disability who requires a residential service, the design of the service shall be made with the individual's unique needs in mind so that the service will facilitate the person's ongoing growth and development.

##### § 6400.2. Purpose.

The purpose of this chapter is to protect the health, safety and well-being of individuals with [mental retardation] an intellectual disability, through the formulation, implementation and enforcement of minimum requirements for the operation of community homes for [people with mental retardation] individuals with an intellectual disability.

**§ 6400.3. Applicability.**

(a) This chapter applies to community homes for [people with mental retardation] individuals with an intellectual disability, except as provided in subsection (f).

(b) This chapter contains the minimum requirements that shall be met to obtain a certificate of compliance. A certificate of compliance shall be obtained prior to operation of a community home for [people with mental retardation] individuals with an intellectual disability.

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(f) This chapter does not apply to the following:

(1) Private homes of persons providing care to a relative with [mental retardation] an intellectual disability.

\*\*\*\*\*

(3) Intermediate care facilities for [the mentally retarded] individuals with an intellectual disability licensed by the Department in accordance with Chapter 6600 (relating to intermediate care facilities for [the mentally retarded] individuals with an intellectual disability).

\*\*\*\*\*

(7) Residential homes for three or fewer people with [mental retardation] an intellectual disability who are 18 years of age or older and who need a yearly average of 30 hours or less direct staff contact per week per home.

\*\*\*\*\*

#### **§ 6400.4. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Agency*—A person or legally constituted organization operating one or more community homes for people with [mental retardation] an intellectual disability serving eight or fewer individuals.

*Community home for [people with mental retardation] individuals with an intellectual disability (home)*—A building or separate dwelling unit in which residential care is provided to one or more individuals with [mental retardation] an intellectual disability, except as provided in § 6400.3(f) (relating to applicability). Each apartment unit within an apartment building is considered a separate home. Each part of a duplex, if there is physical separation between the living areas, is considered a separate home.

\*\*\*\*\*

*Individual*—[A person with mental retardation] An individual with an intellectual disability

who resides, or receives residential respite care, in a home and who is not a relative of the owner of the home.

*[Mental retardation]* Intellectual disability—Subaverage general intellectual functioning which originates during the developmental period and is associated with impairment of one or more of the following:

\*\*\*\*\*

*[Normalization—*A principle designed to ensure for every person with mental retardation and the person's family the right to live a life as close as possible to that which is typical for the general population.]

\*\*\*\*\*

#### **§ 6400.15. Self-assessment of homes.**

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(b) The agency shall use the Department's licensing inspection instrument for the community homes for [people with mental retardation] individuals with an intellectual disability regulations to measure and record compliance.

\*\*\*\*\*

**§ 6400.18. Reporting of unusual incidents.**

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(c) The home shall orally notify the county [mental retardation] intellectual disability program of the county in which the home is located, the funding agency and the appropriate regional office of [mental retardation] the Department, within 24 hours after abuse or suspected abuse of an individual or an incident requiring the services of a fire department or law enforcement agency occurs.

(d) The home shall initiate an investigation of the unusual incident and complete and send copies of an unusual incident report on a form specified by the Department to the county [mental retardation] intellectual disability program of the county in which the home is located, the funding agency and the appropriate regional office of [mental retardation] the Department, within 72 hours after an unusual incident occurs.

(e) The home shall send a copy of the final unusual incident report to the county [mental retardation] intellectual disability program of the county in which the home is located, the funding agency and the appropriate regional office of [mental retardation] the Department at the conclusion of the investigation.

\*\*\*\*\*

**§ 6400.19. Reporting of deaths.**

(a) The home shall complete and send copies of a death report on a form specified by the Department to the county [mental retardation] intellectual disability program of the



county in which the home is located, the funding agency and the regional office of [mental retardation] the Department, within 24 hours after a death of an individual occurs.

(b) The home shall investigate and orally notify the county [mental retardation] intellectual disability program of the county in which the home is located, the funding agency and the appropriate regional office of [mental retardation] the Department within 24 hours after an unusual or unexpected death occurs.

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#### **§ 6400.44. Program specialist.**

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(c) A program specialist shall have one of the following groups of qualifications:

(1) A master's degree or above from an accredited college or university and 1 year work experience working directly with [persons with mental retardation] individuals with an intellectual disability.

(2) A bachelor's degree from an accredited college or university and 2 years work experience working directly with [persons with mental retardation] individuals with an intellectual disability.

(3) An associate's degree or 60 credit hours from an accredited college or university and 4 years work experience working directly with [persons with mental retardation] individuals with an intellectual disability.

\*\*\*\*\*

**§ 6400.46. Staff training.**

\*\*\*\*\*

(e) Program specialists and direct service workers shall have training in the areas of [mental retardation] intellectual disability, the principles of [normalization] integration, rights and program planning and implementation, within 30 calendar days after the day of initial employment or within 12 months prior to initial employment.

\*\*\*\*\*

**§ 6400.143. Refusal of treatment.**

\*\*\*\*\*

(b) If an individual has a serious medical or dental condition, reasonable efforts shall be made to obtain consent from the individual or substitute consent in accordance with applicable law. See section 417 of the Mental Health and [Mental Retardation] Intellectual Disability Act of 1966 (50 P. S. § 4417(c)).

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## **CHAPTER 6500. FAMILY LIVING HOMES**

### **§ 6500.1. Introduction.**

Family living is based on the importance of enduring and permanent relationships as the foundation for learning life skills, developing self-esteem and learning to exist in interdependence with others; the opportunity for each individual with [mental retardation] an intellectual disability to grow and develop to their fullest potential; the provision of individualized attention based on the needs of the individual with [mental retardation] an intellectual disability; and the participation of the individual with [mental retardation] an intellectual disability in everyday community activities. Family living offers an opportunity for an individual with [mental retardation] an intellectual disability and a family to share their lives together.

### **§ 6500.2. Purpose.**

The purpose of this chapter is to protect the health, safety and well-being of individuals with [mental retardation] with an intellectual disability, through the formulation, implementation and enforcement of minimum requirements for family living homes.

### **§ 6500.3. Applicability.**

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(b) This chapter contains the minimum requirements that shall be met to obtain a certificate of compliance. A certificate of compliance shall be obtained prior to an

individual with [mental retardation] an intellectual disability living or receiving respite care in a family living home.

\*\*\*\*\*

(d) Each agency administering one or more family living homes shall have at least a sample of their homes inspected by the Department each year. Each new family living home administered by an agency shall be inspected by the Department prior to an individual with [mental retardation] an intellectual disability living or receiving respite care in the home. The certificate of compliance issued to an agency shall specify the location and maximum capacity of each family living home.

\*\*\*\*\*

(f) This chapter does not apply to the following:

(1) Private homes of persons providing care to a relative with [mental retardation] an intellectual disability.

(2) A community home for individuals with [mental retardation] an intellectual disability licensed by the Department in accordance with Chapter 6400 (relating to community homes for individuals with [mental retardation] an intellectual disability).

\*\*\*\*\*

(5) A home providing room and board for one or two people with [mental retardation] an intellectual disability who are 18 years of age or older and who need a yearly average of

30 hours or less direct training and assistance per week per home, from the agency, the county [mental retardation] intellectual disability program or the family.

\*\*\*\*\*

#### **§ 6500.4. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

\*\*\*\*\*

##### ***Family living home or home—***

(i) The private home of an individual or a family in which residential care is provided to one or two individuals with [mental retardation] an intellectual disability, except as provided in § 6500.3(f) (relating to applicability).

\*\*\*\*\*

##### ***Individual—***

(i) A person with [mental retardation] an intellectual disability who resides, or receives residential respite care, in a family living home and who is not a relative of the owner of the family members.

*Intellectual disability—*Subaverage general intellectual functioning which originates during the developmental period and is associated with impairment of one or more of the following:

- (i) Maturation.
- (ii) Learning.
- (iii) Social adjustment.

\*\*\*\*\*

*[Mental retardation—Subaverage general intellectual functioning which originates during the developmental period and is associated with impairment of one or more of the following:*

- (i) Maturation.
- (ii) Learning.
- (iii) Social adjustment.]

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#### **§ 6500.12. Waivers.**

A waiver of a specific section, subsection or paragraph of this chapter may be requested by writing to the appropriate Deputy Secretary, [Office of Mental Retardation] of the Department. A waiver will be considered if the following criteria are met.

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#### **§ 6500.20. Reporting of unusual incidents.**

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(c) Oral notification of the county [mental retardation] intellectual disability program of the county in which the home is located, the funding agency if applicable, and the appropriate Regional Office of [Mental Retardation] the Department shall be given within 24 hours after abuse or suspected abuse of an individual or an incident requiring the services of a fire department or law enforcement agency occurs.

(d) An investigation of the unusual incident shall be initiated and an unusual incident report shall be completed on a form specified by the Department. Copies of the unusual incident report shall be sent to the county [mental retardation] intellectual disability program of the county in which the home is located, the funding agency if applicable, and the appropriate Regional Office of [Mental Retardation] the Department, within 72 hours after an unusual incident occurs.

(e) A copy of the final unusual incident report shall be sent to the county [mental retardation] intellectual disability program of the county in which the home is located, the [fund-ing] funding agency if applicable, and the appropriate Regional Office of [Mental Retardation] the Department at the conclusion of the investigation.

\*\*\*\*\*

#### **§ 6500.21. Reporting of deaths.**

(a) A death report shall be completed on a form specified by the Department and sent to the county [mental retardation] intellectual disability program of the county in which the home is located, the funding agency and the regional office of [mental retardation] the Department, within 24 hours after a death of an individual occurs.

(b) An investigation shall be initiated and oral notification of the county [mental retardation] intellectual disability program of the county in which the facility is located, the funding agency and the appropriate regional office of [mental retardation] the Department shall be given within 24 hours after an unusual or unexpected death occurs.

\*\*\*\*\*

**§ 6500.43. Family living specialist.**

\*\*\*\*\*

(e) A family living specialist shall have one of the following groups of qualifications:

(1) A master's degree or above from an accredited college or university and 1 year work experience working directly with persons with [mental retardation] an intellectual disability.

(2) A bachelor's degree from an accredited college or university and 2 years work experience working directly with persons with [mental retardation] an intellectual disability.

(3) An associate's degree or 60 credit hours from an accredited college or university and 4 years work experience working directly with persons with [mental retardation] an intellectual disability.



(4) A high school diploma or general education development certificate and 6 years work experience working directly with persons with [mental retardation] an intellectual disability.

\*\*\*\*\*

#### **§ 6500.45. Training.**

(a) The adult family member who will have primary responsibility for caring for and providing services to the individual shall have at least 24 hours of training related to [mental retardation] intellectual disability, family dynamics, community participation, individual service planning and delivery, relationship building and the requirements specified in this chapter, prior to an individual living in the home.

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#### **§ 6500.46. Annual training.**

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(b) A family living specialist who is employed by an agency for more than 40 hours per month shall have at least 24 hours of training related to [mental retardation] intellectual disability.

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#### **§ 6500.123. Refusal of treatment.**

\*\*\*\*\*

(b) If an individual has a serious medical or dental condition, reasonable efforts shall be made to obtain consent from the individual or substitute consent in accordance with applicable law. See section 417 of the Mental Health and [Mental Retardation] Intellectual Disability Act of 1966 (50 P. S. § 4417(c)).

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**CHAPTER 6600. INTERMEDIATE CARE FACILITIES FOR [THE MENTALLY  
RETARDED] INDIVIDUALS WITH AN INTELLECTUAL DISABILITY**

**§ 6600.1. Purpose.**

This chapter protects the health, safety and well-being of residents living in intermediate care facilities for [the mentally retarded] individuals with an intellectual disability.

**§ 6600.2. Applicability.**

This chapter applies to a residential facility receiving intermediate care facilities for [the mentally retarded] individuals with an intellectual disability monies.

**§ 6600.3. Requirements.**

The Department incorporates by reference 53 F.R. 20494 (June 3, 1988) to be codified at 42 CFR 483.400—483.480 as the licensing regulations for intermediate care facilities for [the mentally retarded] individuals with an intellectual disability.

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TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT

I.D. NUMBER: 14-539

SUBJECT: UPDATE TO INTELLECTUAL DISABILITY TERMINOLOGY

AGENCY: DEPARTMENT OF HUMAN SERVICES

TYPE OF REGULATION

Proposed Regulation

Final Regulation

X Final Regulation with Notice of Proposed Rulemaking Omitted

120-day Emergency Certification of the Attorney General

120-day Emergency Certification of the Governor

Delivery of Tolled Regulation

a. With Revisions

b.

Without Revisions

2016 FEB 11 PM 2:30

RECEIVED  
LRRC

DELIVERY OF REGULATION

DATE

SIGNATURE

DESIGNATION

HOUSE COMMITTEE ON HEALTH SERVICES OR HUMAN  
SERVICES

MAJORITY CHAIR Di Girolamo

MINORITY CHAIR Cruz

SENATE COMMITTEE ON PUBLIC HEALTH & WELFARE

MAJORITY CHAIR Vance

MINORITY CHAIR Kitchen

INDEPENDENT REGULATORY REVIEW COMMISSION

ATTORNEY GENERAL (for Final Omitted only)

LEGISLATIVE REFERENCE BUREAU (for Proposed only)

February 1, 2016