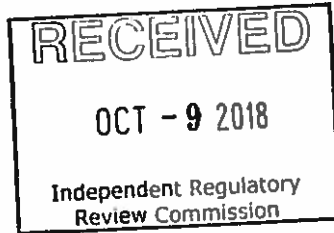


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October 09, 2018

Fiona Wilmarth, Director of Regulatory Review  
Independent Regulatory Review Commission (IRRC)  
333 Market Street, 14<sup>th</sup> Floor  
Harrisburg, PA 17101

Dear Ms. Wilmarth:

The Rehabilitation and Community Providers Association (RCPA) is pleased to submit these comments in support of the proposed 6100 regulations in advance of providing comments in person at the IRRC meeting on October 18. (Reference IRRC Regulation #3160 and DHS Regulation #14-540, titled "HCBS and Licensing").

The Office of Developmental Programs (ODP) embarked on a transparent and detailed process beginning in May 2014 to develop the proposed 6100 regulations. These regulations were designed to replace the problematic Chapter 51 regulations that are in place today. The process included a line by line review of the regulations with a wide-ranging stakeholder group that included associations, providers, advocates, and self-advocates. This group met regularly to review comments, edits, and suggestions over a 3-4 year period. True listening took place, and this is reflected in many of the compromises that have been incorporated into the 6100 regulations as proposed.

RCPA also had the opportunity to submit formal written comments during the public comment period. These comments were taken very seriously and ultimately made a significant impact on the content of the final regulations. Of RCPA's 270 comments, 136 (50%) were specifically addressed in the final regulation but all comments were considered and impacted the final language.

Some of the benefits of the proposed regulations include:

- There is streamlining of content and the removal of past inconsistencies that will assist providers in reaching compliance.
- There is a consistent focus on person-centered services and respect for individual's rights/personal preferences.
- These regulations move PA to comply with the Federal Home and Community Based Waiver Final Rule for settings but will not require any current programs to close.
- Fee Schedule/rate setting is much more transparent, and minimally requires a review of rates every three years. It is hoped and recommended that the clock for this refreshing begins on the date rates were last set in FY 2017/18. While a blanket cost of living increase is preferable, this language is a step in the right direction.
- The fee setting process now recognizes costs associated with staff benefits, training, recruitment, and supervision.
- New rules regarding reserved capacity will enable providers to adjust the capacity of the home temporarily (while an individual is away for long periods of time due to therapeutic leave, hospitalization, or rehabilitation) – this allows the provider to bill at a rate based on the number

of individuals served in the home during this period of time, therefore covering their costs while holding a bed for the person who is not present.


- Quality management requirements are less prescriptive, streamlined, and moved to a three-year cycle versus a two-year cycle.
- The proposed Human Rights team process that was very burdensome has been removed, relying instead of individuals teams, and internal committees that have been in place due to licensing standards.
- Balancing of rights and risks was addressed through some subtle changes that will help address safety concerns while still respecting individual choice, and negotiation of choices.
- Prohibition of restraints except for emergency situations is positive, and the language utilized in this area is much clearer.
- Training for staff – several changes were made in response to comments made – the requirement for an annual plan was eliminated, and some length of training requirements were changed to requiring a topic versus length of training. Overall there is good consistency and simplification of training requirements, however, there is still a requirement for non-direct care staff to have training that is not directly connected to their job.
- Incident management – reporting and investigation has been clarified and reduced, although the scope of incidents to be investigated by a certified investigator has been increased and this will likely create a burden for providers due to the length and amount of work involved in completing investigations, some of which will now be required for even minor incidents.
- Content of Individual Plans was significantly reduced and simplified. And the “requirement to actively pursue employment” has been removed and is now worded in a manner consistent with the governor’s Employment First policy that the first consideration for an individual of employment age be to explore employment.
- The process for requesting a waiver of one of the regulations has been simplified.
- The discharge planning process allows for DHS to authorize early transfer to protect the health and safety of an individual.

Overall, the proposed regulations also allow for innovation in service provision.

In sum, RCPA supports the adoption of the proposed 6100 regulations as submitted by ODP. The development of these regulations was through an open and transparent process and stands as a significant improvement over the onerous, current, Chapter 51 regulations.

I look forward to discussing this further at the meeting on October 18.

Sincerely,



Richard S. Edley, PhD  
President and CEO

cc: Karen E. Kroh/Regulatory Management Consultant  
Office of Developmental Programs