

Kathy Cooper

From: Sandy Myers <sandymyers@jandfcommunity.org>
Sent: Monday, October 15, 2018 9:40 AM
To: IRRC
Subject: Comments on ODP Final Form Regulations
Attachments: Comments concerning the proposed ODP Final Form Regulations.docx

Good Morning,

Department of Human Services Regulation #14-540: Home and Community-Based Supports and Licensing
IRRC Number: 3160

Thank you for giving us this opportunity to comment on the regulations as they are proposed. My comments are attached.

Sincerely
Sandy Myers

3160

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Sandy Myers

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The mission of Jessica and Friends is to provide faith-based support and services for individuals with autism and intellectual disabilities.

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3160



Comments concerning the proposed ODP Final Form Regulations.

Incident Management 6100.401-402

I have considerable concerns relating to the incident management sections of the proposed regulations and the negative impact they will have on provider agencies. A comprehensive investigation by a Certified Investigator has always been required for extremely serious incidents and, as such, the process to complete a thorough investigation is extremely detailed and time consuming, asking for several exhibits and documentation. If done correctly, it is a very cumbersome process. Requiring this to be completed for the increased categories in the proposed regulations would be an extremely difficult burden for agencies for the following reasons.

1. The number of certified investigations required would jump exponentially and it would almost necessitate full-time investigator positions. Current Investigators fill this role in addition to their other job duties, but the new regulations would likely make this an impossibility. Additionally, providers would need even more staff to become Investigators, which currently requires them to go to a full week of training. With the high rate of staff turnover in this field, agencies would need to continue to add absorb these additional staff costs on an ongoing basis.
2. Individual to Individual abuse has been added to the abuse category and that is now requiring an investigation. The Department refused to define abuse, neglect, and exploitation, so how are we to interpret these categories? In the past, individual-to-individual abuse was reported for nearly all negative interactions between participants. In a population with such a high level of need, we are frequently faced with a wide-range of behavior issues. When someone makes a negative verbal comment to someone else, pushes someone, touches their arm after being asked to stop, steps on their foot and the victim feels it was on purpose (even if it wasn't), etc., these have all been considered "abuse" and have been reported through the incident management system. These are daily occurrences. How can we possibly keep up with the workload of full investigations for each of these incidents? Will a shortened investigation form be created? Should we be using the legal definitions of abuse and not be reporting on these more minor interactions?
3. Injury Requiring Treatment Beyond First Aid as the result of an accident has now been added to the list of incidents that require an investigation. These are very frequent occurrences and are already reported through our incident management system. To require a certified investigation would, again, be extremely burdensome. The certified investigation process requires securing the scene, collecting evidence, taking pictures, interviewing witnesses, writing a formal report with findings, conducting an extremely thorough peer review of that report, etc. If someone twists their ankle playing basketball and is taken to urgent care for an x-ray, or has another minor accident (which we all have) how and why would agencies need to conduct this level of investigation?

Annual Training 6100.143

The additional training requirements of 12 hours of training for administrative, fiscal, dietary, housekeeping, maintenance and ancillary staff persons places an additional administrative and cost burden on agencies to maintain. Not only is it the time of the staff person completing the training, but it is the cost of the staff person administering the training and it is the cost of the

administrative task of tracking and documenting annual training hours and topics for every employee of an agency. This would cost both large and small agencies a significant amount of money and the training hours are completely arbitrary, since they can complete training on anything related to their job. Why are we adding additional administrative tracking tasks to document if a maintenance worker learned to use the mower or a fiscal worker learned a new accounting software system? If certain topics are required annually for all agency employees, then allow us to conduct those trainings with each staff member in a way that works for each provider and collect a signed statement each year, saying they completed their training in the required topic areas. Why is it necessary to have a 12 hour mandate with the associated documentation requirement?

Medication Administration Training 6100.468(c)(2):

In the Department's response to public comment they state, "The frequency of training recertification in the use of auto-injectors for the administration of epinephrine is modified from every 12 months to every 24 months to coincide with the Certified Pulmonary Resuscitation (CPR) course recertification. Training in the use of auto-injectors for the administration of epinephrine is now being taught as part of the American Heart Association and American Red Cross CPR training courses. This is a benefit for providers who will not have to plan and budget for two separate training courses." However, the actual wording of the regulation does not seem to allow American Heart Association or American Red Cross instructors to provide this training. The regulation requires the training to be "provided by a professional who is licensed, certified or registered by the Department of State in the health care field." I am a Red Cross Instructor, but do not meet that definition. My certification comes directly from the Red Cross, not the Department of State, and I am not considered a member of the health care field. Does that mean I cannot provide training in EpiPen use to my staff as a part of their CPR certification?

Health Alerts Comment

It appears that many of the recommendations that were issued in ODP Health Alerts were not codified in these regulations. As a provider agency, we are concerned that these recommendations that do not have the power of law behind them, will still be used subjectively to dictate provider actions, despite the fact that they were not included in the final form regulations.