

Kroh, Karen

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From: Karen Scanlon <k.scanlon@mcguirememorial.org>
Sent: Friday, December 16, 2016 2:34 PM
To: Kroh, Karen; Mochon, Julie
Cc: s.thaddeus@mcguirememorial.org
Subject: comments on regulations
Attachments: Karen's comments Ch 6100.docx

Attached please find my comments of the proposed regulations for your consideration. Thank you in advance.

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Comments

Chapter 6100

** These comments as they refer to 6100, 6400, 2380, 2390, 6500 should be applied to each chapter where applicable.*

6100.42. Provider Performance Review

By changing the name from monitoring to Performance review, this section becomes less punitive. This will be accomplished through the removal of punitive language from this section and inserting the development of appropriate remedial actions when necessary through cooperation and collaboration by the oversight entities and providers.

6100.43. Exception Process.

Review of provider performance is customary but likewise requires adherence by oversight entities to their duty to work in cooperation with a provider. The tone and text in this section and elsewhere evinces a perspective that tends to focus on imposition of penalties as opposed to developing and implementing appropriate remedial actions when necessary. The term exception more accurately defines this process. The exception process should be granted in a timely manner by the Department. Insertion of language and time limits will ensure this occurs. Exceptions will be included as a part of the PSP for an individual and should renew annually unless circumstances have changed that require modification.

6100.52. Rights team

The concept of evaluating the potential and actual violation of rights is a necessity. Right violations are already appropriately covered in the Incident Management process which includes a thorough investigation by an investigator and a resulting corrective action plan. This is another example of duplications that occur in this chapter and unfunded mandates for providers. As part of the already well-established Incident Management system, all allegations of rights violations must be investigated. If a violation of rights is confirmed, the process already has established corrective action plan. The proposed regulatory change in this chapter propose to increase the expectations and role of the PSP team as necessary, even further. We support the expectations that already exist to thoroughly address any rights violations and believe that the additional administrative expectation and associated costs are unnecessary, a duplication and uneconomical. According to the regulations, the "rights team" is to meet every three months, regardless of whether any actual rights violations. This simply adds an expectation by adding unnecessary cost to the system and an additional administrative task for providers.



In the licensing regulations for Chapter 2380, 2390 and 6400, a well-established process exists for the management of any restrictive procedures, including restraint. The regulations have already established the "Restrictive Procedures Committee" with the same basic functions of the newly created team. By replacing a currently existing process, unnecessary costs are added to the system. It is entirely unclear why a new "rights team" is necessary or adds any value to the actual protection of individuals' rights, but rather only would add cost and administration burden. This section needs to be eliminated. It is an unnecessary additional investigational procedure that already exists and an additional committee. The section should be deleted from the chapter due to redundancy and increased burden to the system through the creation and implementation of another committee.

Citation: 6100.141. Annual training plan

The training plan orientation and annual training for each provider should be unique to that provider, their mission and most importantly the consumers they support. The rigid nature of this section is very prescriptive. Require number of training hours for everyone who works for provider (dietary, maintenance, clerical etc.) should not be considered. Training on four core areas should be given to ensure a basic working knowledge should be completed. The expectation of 8 hours of training per person is again an unfunded mandate and will require numerous hours of training. The hours for training should be provided to those who work most closely with the individuals. This training should be developed according to the mission and philosophy of each provider not ODP. This regulation is taking away the individual nature of each provider. Suggestion of core training can be provided but should not be regulated. Providers should have the latitude to know what is important training for their staff to have in order to support the needs of the individuals within the agency.

6100.181. Exercise of rights

It is imperative that this section of the regulations be changed to include language that ensures individuals receive and must be supplied with training to assist them in understanding and exercising their rights. This section makes the assumption that every individual understands and can exercise their rights on their own. It shows a lack of understanding on the part of the department to assume that each individual understands their rights fully. Language about ensuring individuals who cannot and do not understand their rights have sufficient support to exercise their rights in an appropriate manner.

6100.223 Content of the PSP

In number 11 under this section, ensuring employment as first priority before other activities or supports is not appropriate for some individuals. This philosophy is clearly discriminatory, inappropriate and did not consider in planning individuals with multiple disabilities and medical conditions. This system cannot and should not be a one size fits all model. Number 11 is in complete opposition to the title "Person-Centered" Support Plan. Every individual is not the same. Their needs and supports are drastically different. This should be deleted.



6100.341. Positive intervention

Every Aspects of this section (341,342, 343, 344, 345) should have been developed solely by experts in the field of challenging behaviors. After being written, various stake holders on the committee could have reviewed and provided comments. The sections are not written in a behaviorally sound manner. As written, they will cause increased concern for the safety of those with significant behaviors. This section again provides poor direction, little understanding of individuals with truly dangerous behaviors and will impact them and the providers. This section needs rewritten in its entirety.

6100.446. Facility characteristics relating to size of facility

The Department should not place a size limitation on a day program. A size limit of 15 will cause an increase in the number of sites within small suburban counties. This model will require an increase in staffing ratio, vehicles and overall costs of an already strapped system. This model cannot be supported financially by provided. Additionally, in small suburban counties the pool of potential staff in far less than in larger urban areas.

6100.447. Facility characteristics relating to location of facility

The location demand of this section again does not consider small counties with numerous human service agencies. Smaller site with size limitations of 15 will require providers in these counties to locate a site that is not in close proximity to another human service day facility. This may be next to impossible. Once again, the Department is placing undue demands and limitations on providers.

Respectfully submitted by:

Karen S. Scanlon, M.Ed.
McGuire Memorial
VP of Regulatory Compliance
December 15, 2016



December 15, 2016

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Reference Regulation No. : 14-540

Dear Ms. Monchon,

Enclosed please find my comments and recommendations on the proposed 2380, 2390, 6100, 6400 and 6500 regulations. Please feel free to contact me if you have any questions. Thank you for your consideration of my input in this process.

Sincerely,

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