

Kroh, Karen

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14-540-66

From: Mochon, Julie
Sent: Friday, December 16, 2016 10:46 AM
To: Kroh, Karen
Subject: Fw: Comments Ref. Reg. 14-540
Attachments: SKM_224e re16121610400.pdf

From: Christopher Shay <c.shay@mcguirememorial.org>
Sent: Friday, December 16, 2016 10:27 AM
To: Mochon, Julie
Cc: Janice Bove
Subject: Comments Ref. Reg. 14-540

Good Morning Julie,

Please accept my attached comments, suggestions, and recommendations.

Regards,

Christopher M. Shay
 V.P. of Title XIX Programs & Risk Management
 McGuire Memorial
 724-843-3400 ext. 1154

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December 15, 2016

Julie Mochon, Human Service Program Specialist Supervisor
Office of Developmental Programs
Room 502, Health and Welfare Building
625 Forster Street
Harrisburg, PA 17120
jmochon@pa.gov

Reference Regulation No. 14-540

Dear Julie Mochon,

Please accept my attached comments, suggestions, and recommendations for the proposed 2380, 2390, 6100, 6400, & 6500 regulatory changes and implementations. Thank you.

Regards,

Christopher M. Shay
(Parent/Guardian & Provider)

6100.45 Quality Management (Comments to be applied across all: 2380, 2390, 6100, 6400, & 6500.

I believe that any quality provider should have and maintain a quality management committee; however, the department is greatly overreaching their role in dictating and mandating how quality management should be implemented. If the provider does incorporate a quality management plan, that plan should clearly be defined the Mission of the provider, which would mirror the Mission of the department without blurring the providers true identity. The department should not have the right to dictate how often and/or when a provider needs to analyze or revise their respective quality management plan. Additionally, staff's satisfaction and turnover rates within the provider industry is greatly based on the employee's ability to survive on the inadequate wages provided to them through our current rate setting methodologies in the state. Providers have not been able to give their workforce a cost of living adjustment (COLA) in 15 years. Therefore, I feel that it is an unfair mandate to require the provider to manage an analysis report for the department as part of their quality management, based on employee satisfaction and turnover, when the department and state is directly responsible for the overall dis-satisfaction and turnover of this specific workforce, as they will not reimburse provider's enough to pay and keep quality personnel.

6100.52 Rights Team (Comments to be applied across all: 2380, 2390, 6100, 6400, & 6500.

All providers should have and maintain a rights team made up of the individual, the individuals parent/guardian, or other appointed persons, the provider, and other members made up of predominantly non-biased & non-provider employed persons. This team should review the individual(s) rights, incidents, and any violations thereof to evaluate the sufficiency and appropriateness of the investigation, follow up, plan of correction, and the individual's care plan going forward. The way that the regulation currently reads is requiring a provider to create, facilitate, and implement a new committee with new committee members for each occurrence, which is a logistical nightmare and another unfunded mandate by the department to incorporate. Please remember and keep in mind that any and/or all rights violations are required to have a thorough investigation with remediation and a plan of correction, which is reviewed by the county and respective regions. Again, the department is overreaching in their role by dictating how a provider is to manage their operations in creating requirements that is cumbersome and impossible to attain as currently written in this section.

6100.141 Training (Comments to be applied across all: 2380, 2390, 6100, 6400, & 6500.

The providers training plan must be specific to the provider, the provider's mission, and the specific clientele in which they serve. Training must be based on the individuals and their respective needs period. The department can recommend but cannot and should not dictate to a provider's training plan, orientation program, or annual training syllabus.

6100.143 Annual Training (Comments to be applied across all: 2380, 2390, 6100, 6400, & 6500.

I like the changes made to the training requirements for the different classifications of personnel. I do not believe that the President/CEO, or other executive level / administrative personnel needs 24 hours of annual training. The department must consider though the unfunded mandates imposed on the providers for training requirements of personnel. Training is necessary and providers want qualified personnel; however, that takes time and money (none of which the department/state wants to give). Regardless, the department may recommend but should not be allowed to dictate a providers training/orientation programs.

Individual Rights – Sections 6100.181 through 6100.186 (Comments to be applied across all: 2380, 2390, 6100, 6400, & 6500.

I have a general comment to make in reference to the rights sections. I do not have an inherent problem with the delineation of rights as defined in the regulations; however, the department is failing to realize that this is NOT a “one size fits all” declaration. There is a certain undignified quality of pacification towards individuals who cannot understand and/or speak for themselves on matters of choice and individual rights. Even the freest of men have limitations on respective rights and choices! The department continues to placate individuals with this notion that they have a right to choose and direct services with little to no understanding of consequence or outcome.

An individual has the same God given rights as anyone else, and they cannot be discriminated against because of race, color, creed, **disability**, religious affiliation, ancestry, gender, gender identity, sexual orientation, national origin or age. An individual has the right to civil and legal rights afforded by law, including the right to vote, speak freely, and practice the religion of his choice without persecution. Otherwise, like all of us, individuals living within the PA system must live within their means with the right to choose within their respective opportunities as presented or available to them.

6100.402 Incident Investigation (Comments to be applied across all: 2380, 2390, 6100, 6400, & 6500.

Please take note to this section. The incident management system has served the department well for over a decade now and I believe it is a good system with appropriate checks and balances. **NOT** every incident that is reported needs to be investigated. Currently there is specific categories/sub-categories that require an investigation and those that simply do not require anything more beyond reporting and follow up. Requiring that every incident category listed needs to be investigated as referenced in 6100.402 (c) is another unfunded mandate, which places a tremendous amount of administrative strain not only on the provider, but the county and regional offices as well. The only incidents that should be investigated are those incidents outlined in the matrix of the incident management bulletin and those identified in Adult Protective Services. PLEASE review this section carefully and understand that NOT every incident that is reported would require an investigation. This is a gross waste of resources and personnel amongst all entities involved!

6100.446 Facility characteristics relating to size of the facility (Comments to be applied across: 2380, & 2390.

6100.446 (c) should not and cannot place a limitation of 15 on program capacity in day facilities. The department must recognize that there is more than 15 persons each year waiting for day services alone, and families are dependent on qualified day programs to care for their loved ones while they are at work. The restructuring and capitation of day programs will force undue hardships on families and individuals who depend on this service model. The department just submitted these regulations with the individual and their respective rights proclaimed throughout; however, in many ways the prescriptiveness of this regulation greatly limits the exercise of any said rights; especially, in relation to their choice of day programming. A day program with a capitation of 15 is fiscally unsustainable because of the wide and diverse population of the individuals physical/intellectual needs. Again, this is NOT a "one size fits all" and the department failed to account for those individuals who need extensive medical or behavioral care that cannot be supported in a program with capacity to only serve 15. This stipulation was not thought out and there was no plan ever developed to successfully test this model program. I believe that no capitation should be written into regulation without a prudent model designed that has been proven to meet the health, safety, and needs of the individuals served with viable sustainability. Case in point, the number 15 was seemingly pulled from a hat as there was no evaluation of impact to a prescribed capitation. It is inconsistent with other sections of regulation that is not changing as defined in the 2380's whereas there only has to be one person for every 18 individuals who needs to be trained on CPR and 1st aid. In accordance to this section no one in this new 15 person program would have to be CPR or 1st aid trained, which is huge oversight and grossly negligent. This is just one example of the unintended consequence of quickly and spontaneously implementing a rule on an unproven notion or model without successful trials.

6100.462 Medication Administration (Comments to be applied across all: 2380, 2390, 6100, 6400, & 6500.

I strongly caution the department in drafting medication administration procedures into regulation. The department utilizes a prescribed medication administration model, which directs the "best practices" for medication administration. Additionally, incident management requirements cover procedural safeguards in the reporting and remediation of medication errors. Practices, even "best practices" change over time when things are refined and advancements are made with trainings and requirements that would impact existing models or programs; therefore, I would not define and/or prescribe the entire medication administration process within the regulations as identified in sections: 6100.462, .463, .464, .465, .466, .467, .468, & .469... Future changes in "best practices" will be rendered useless if the current prescribed method is detailed in regulation and would not be easily changed and/or modified.

6100.470 Exception for Family Members (Comments to be applied across: 6500.

Exceptions for family members must include "Life Sharing" under 6500 regulations. Requiring "Life Sharers" to undergo the medication administration training requirements and processes is going to place a huge burden on those providing that service and it will kill the service

altogether. Life Sharing is a de-institutionalized initiative, which the department is institutionalizing with regulation and rules on how individuals and service providers must live.

Change 6100.462 Medication Administration to: Any unlicensed persons who administer prescription medication or insulin injections to individuals who cannot self-administer medications shall be required to receive training by the individual's source of healthcare (applicable to chapter 6500) or by the prescribed department's medication administration model, which details the medication administration processes and requirements for chapters 2380, 2390, and 6400.

Eliminate all other sections relative to Medication...

Rationale:

The above statement identifies a specified need to reinforce the administration of medication by unlicensed persons. This regulatory statement as proposed would require the training of unlicensed persons by either the individual's source of healthcare for "Life Sharing," which clearly should be a de-institutionalized model... Further training would be required and as prescribed by the department for chapters 2380, 2390, and 6400. The applicable medication administration module within itself streamlines the requirements, and outlines policy and procedure for the administration of medications. The applicability and accountability of all medication administration is evident in other areas of the 6100 regulation as referenced in the individual's record section, and the incident management section under reporting. Furthermore, the prescribed program endorsed by the department clearly details the rules and requirements that includes but is not limited to the following: medication administration, storage and disposal, labeling, prescription/nonprescription, records, error reporting, adverse reaction, and training.

