Kroh, Karen #3160 #14-540 (58)

From: Mochon, Julie
Sent: Friday, December 16, 2016 9:58 AM
To: Kroh, Karen
Subject: Fw: Comments and concerns on the Rulemaking 2380, 2390 and 6100

From: Nofre P.Vaquer <nvaquer@sparcphilly.org>
Sent: Friday, December 16, 2016 9:00 AM
To: Mochon, Julie
Subject: Fwd: Comments and concerns on the Rulemaking 2380, 2390 and 6100

Good morning Ms. Mochon.

I would like to thank you for the opportunity to comment on the proposed Ch. 6100, 2380 and 2390 regulations.

My areas of concern are as follows:

1. 6100.446 – **Size of Facility**

To the best of my knowledge, CMS Final Community Rule does not specify an absolute cap on program size. I recommend that this requirement is eliminated from the regulations. I believe all providers are on board on this transition and change of delivery service from facility based to community based but why make an already difficult transition more difficult and much more costly due to the additional resources needed to complete this transition, higher staffing levels and additional facility costs? Separating people who enjoy working together due to an arbitrary capacity number imposed by the state will have a great negative impact like it would have if it was done in your offices. We are already moving people into the community – why make additional moves necessary? An unintended consequence of this indiscriminate requirement may be that to get to the required number, facilities might discharge people who are the most difficult to support in the community, and that would be tragic. These discharges might be inevitable and may be the most cost-effective strategy to ensure compliance. Finally, licensing regulations determined program capacity and this new regulation would be in direct conflict with the BHSL stated capacity of our program. In the federal regulation it clearly states, ***"We do not believe there is a maximum number that we could determine with certainty that the setting would meet the requirements of HCB setting. The focus should be on the experience of the individual in the setting."***

2. 6100.461-6100.469, 2380.121-2380.129, 2390.191-2390.199, 6400.161-169 and 6500.131-6500.139 – **Medication Administration**

We recommend that the high level of detail in these very prescriptive regulations be removed or, at least, pared down. For the regulations to hold up over time, given the potential changes in technology and with the medications themselves, less detail is preferable. We suggest that all activities related to medication administration should refer to the Office of Developmental Programs' Approved Medication Administration Training. There are inconsistencies between the proposed 6100 regulations and the Approved Training such as in pre-pouring medications. To increase consistency across regulations and reduce confusion, eliminating so much detail and just referring to the Approved Medication Administration practices would be efficient. Additionally, the Approved Medication Administration Training test itself could benefit from more instruction regarding the answer format. It is not intuitive and cumbersome to the point of failing its purpose of testing knowledge. The content of the test should be the determining factor upon which a passing grade is given, and the grade should not be so highly dependent upon the answer format.

3. 6100.571(c) – **Fee Schedule Rates**

No business can operate and be good at delivering a consistent quality service if they do not have information on repayment rates. Revisiting the rates every 3 years is not a good practice. Without a clear commitment to the payment of rates that support the increasing cost of the proposed regulations and waiver changes, a significant threat to the quality of service that providers are able to deliver will be the result. Currently, it is a considerable challenge to hire and retain qualified, dedicated staff at the abysmal pay grade we are able to provide for them. As you are undoubtedly aware, the turnover rates in our industry are astronomical, and unless there is a structured, precise, and transparent rate-setting methodology and a commitment to fund the many changes and new requirements the state is setting forth, we're concerned that the quality of service we currently provide will suffer.

4. 2380.156, 2390.176 - **Rights Team**

We recommend that the requirement to create a Rights Team be removed from the regulations. We see this as a duplication of effort given that we are already held to the incident management regulations as well as to the regulations around an individual's civil rights. The current system and protocol have a good way of handling these situations. Since a rights violation is already classified as an incident, (2380.17 (a) 15), it is already subject to documentation, dissemination of the documentation, analysis, and corrective action. The Civil Rights process, including explaining rights annually, also makes the requirement for this team redundant. Adding another quarterly meeting and requiring individuals and staff who are predominantly in the community to spend precious time in yet another meeting, is a duplication of effort. Additionally, holding a meeting every three months whether there is a rights violation or not, seems excessive, redundant and not efficient. If a Rights Team is absolutely necessary, we recommend that a meeting be held only when a rights violation actually occurs.

5. 2380.156, 2390.176 - **Rights Team**

We recommend that the requirement to create a Rights Team be removed from the regulations. There is already a mechanism in place that is effective and safeguards the rights of clients. We see this as a duplication of effort given that we are already held to the incident management regulations as well as to the regulations around an individual's civil rights. Since a rights violation is already classified as an incident, (2380.17 (a) 15), it is already subject to documentation, dissemination of the documentation, analysis, and corrective action. The Civil Rights process, including explaining rights annually, also makes the requirement for this team redundant. Adding another quarterly meeting and requiring individuals and staff who are predominantly in the community to spend precious time in yet another meeting, is a duplication of effort. Additionally, holding a meeting every three months whether there is a rights violation or not, seems excessive. If a Rights Team is absolutely necessary, we recommend that a meeting be held only when a rights violation actually occurs.

Regards,

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