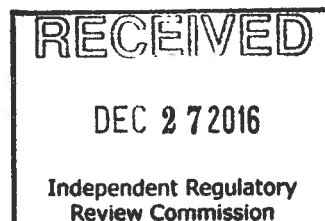


Kroh, Karen

3160

#14-540 - 173

From: Mochon, Julie
Sent: Tuesday, December 20, 2016 10:21 AM
To: Kroh, Karen
Subject: FW: ACHIEVA Letter and Comments
Attachments: ACHIEVA Comments.docx; ACHIEVA Letter on Regs.pdf



From: Murray, Nancy [mailto:nmurray@achieva.info]
Sent: Tuesday, December 20, 2016 9:54 AM
To: Mochon, Julie <jmochon@pa.gov>
Subject: ACHIEVA Letter and Comments

Hi Julie,

Attached are two documents regarding our comments. Thank you for all of your hard work on the licensing regs and the waiver renewal. I sincerely hope that you and your family have a wonderful holiday season! You deserve it!

Nancy

Nancy Murray
President, The Arc of Greater Pittsburgh
ACHIEVA
711 Bingham Street
Pittsburgh, PA 15203
412-995-5000 x 424
nmurray@achieva.info

"When it is obvious that the goals cannot be reached, don't adjust the goals, adjust the action steps." -Confucius

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The official registration and financial information of ACHIEVA may be obtained from the Pennsylvania Department of State by calling toll free, within Pennsylvania, 1 (800) 732-0999. Registration does not imply endorsement.

December 20, 2016



Ms. Julie Mochon, Policy Specialist
Office of Developmental Programs
Room 501, Health & Welfare Building
Harrisburg, PA 17120

RE: Comments on Home and Community-Based Supports and Licensing Proposed Rulemaking

Dear Ms. Mochon:

As you know, The Arc of Greater Pittsburgh/ACHIEVA is one of the largest providers of supports for individuals with intellectual disabilities and their families in western Pennsylvania. The Arc of Greater Pittsburgh/ACHIEVA is recognized across Pennsylvania and nationally for its advocacy on behalf of children and adults with disabilities, for supporting families and for creating innovative supports and services. We appreciate the opportunity to comment on the Home and Community-Based Supports and Licensing proposed regulations and to have representatives as members of various Office of Developmental Program's (ODP) workgroups and the Information, Sharing and Advocacy Coalition.

We congratulate the Office of Developmental Programs (ODP) for ensuring the proposed regulations use consistent language and requirements across all chapters, repealing Chapters 5100 and 6200 and amending portions of the four chapters to reduce duplication. We also appreciate that ODP has proposed including the adult autism waiver in Chapter 6100, including base-funding in Chapter 6100, addressing key requirements of the Final Rule, replacing "individual support plan" with "person-centered plan" and prohibiting restraints.

General Comments

1. While these comments focus primarily on Chapter 6100, our comments also apply to the corresponding sections of Chapters 2380, 2390, 6400 and 6500. If no comment is offered, we agree with ODP's proposed language.
2. In keeping with the Center for Medicare and Medicaid Services (CMS) and ODP's focus on community inclusion and person-centeredness, we highly recommend that the term, "residential facility" be replaced with "community home" and that the term, "client" be replaced with "person" or "individual" across all chapters.
3. Although CMS uses the term, "services", we recommend the term, "supports", to reflect the fact that people with disabilities are more included in their communities and have access to natural supports as people who do not have disabilities.
4. Definitions should be the same across all chapters.
5. Waiver qualifications for positions should be the same across all chapters.
6. The term and definition, "handicapped employment," is outdated and should be deleted.

Affiliated with The Arc of Pennsylvania and The Arc of the United States

THE ACHIEVA FAMILY
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7. In considering comments from self-advocates, requiring 3 people attend a PSP meeting is not always realistic because some individuals have no involved family or service provider.
8. We strongly support ODP's intent to broaden eligibility to serve young children; hence, the Chapter 6100 regulations will need to be revised to include young children, their families and permanency planning.
9. As a member of The Arc of Pennsylvania, PAR and the Imagine Different Coalition, we have stated agreement with many of their comments in order to shorten and simplify our comments.

ACHIEVA recognizes that ODP staff has dedicated a tremendous amount of time in crafting the proposed regulations and we appreciate the work that has gone into redesigning Everyday Lives and these regulations to make them more community inclusive and person-centered. We look forward to continuing to work with ODP, other organizations, families and self-advocates ensuring that people with intellectual and disabilities and autism have access to the highest-quality and innovative services possible. Should you have any questions, please contact me at nmurray@achieve.info or 412-995-5000 x 424.

Sincerely,

A handwritten signature in cursive script that reads "Nancy Murray".

Nancy Murray
President, The Arc of Greater Pittsburgh

Comments on the Home and Community-Based Supports and Licensing Proposed Rulemaking
Submitted to the Pennsylvania Office of Developmental Programs
By The Arc of Greater Pittsburgh/ACHIEVA
December 20, 2016

§ 6100.2 Applicability

We strongly support the Office of Developmental Program's intent to broaden eligibility to include young children so that children currently in large residential settings can be cared for by families in their community; however, the Chapter 6100 regulations will need to be amended to do so.

We support that in 6100.2. (9), the vendor fiscal employer agent model was removed from this chapter. We recommend the removal of Agency with Choice (AWC) and Organized Health Care Delivery Services (OHCDS) from the chapter so all administrative services are provided without the extensive requirements of this chapter.

§ 6100.3. Definitions.

We recommend the following definitions:

"Family" – the person or people who are related to or chosen by the person as family.

"Natural support or support" – An activity or assistance that is provided by family, friends or other community members without expectation of payment.

"Service" - An activity or assistance that is provided through a waiver.

§ 6100.42.

We recommend changing the title to: **Review of Provider**

We recommend that when services are provided across multiple counties, one designated managing entity should perform the provider performance review so as to reduce costs.

§ 6100. 45. Quality management.

We agree with PAR's comments.

§ 6100.46. Protective services.

In addition to abuse, we recommend the addition of the terms, "neglect, abandonment and exploitation". We also recommend that

(a) Abuse, suspected abuse and alleged abuse of an individual, regardless of the alleged location or alleged perpetrator of the abuse, will be reported and resolved in accordance with the following:

§ 6100.47. Criminal history checks.

(b)(1) Change to HCBS paid household members

(b)(5) Delete volunteers. Regulations should apply to those providing HCBS services. Volunteers and friends, as natural supports, should not be required to have criminal history checks.

§ 6100.50 Communication.

(a) and (b) "Shall" should be replaced with "will".

§ 6100.51. Grievances.

(a) The provider shall develop procedures to receive, document, and resolve grievances.

(c) The provider shall address oral and written grievances from any source, including an anonymous source regarding the delivery of services.

(e) If an individual indicates the desire to file a grievance in writing, the provider will offer and provide assistance, including assuring that an advocate, family member or friend can help to prepare and submit the written grievance.

§ 6100.52. Rights Team.

The "Rights Team" responsibilities should be incorporated into the Incident Management team's responsibility to avoid duplication of effort.

§ 6100.53. Conflict of interest.

We strongly support having individuals and family members serve on governing boards.

§ 6100.55. Reserved capacity.

We strongly support an individual's right to return home following a hospitalization or therapeutic leave in accordance with reserved capacity timelines as specified in ODP's waivers and waiver amendments.

§ 6100.81. HCBS provider requirements.

For clarity, separate this section into new HCBS provider requirements and existing provider requirements.

§ 6100.141. Annual training plan.

We agree with PAR's comments.

§ 6100.142. Orientation program.

We agree with PAR's comments.

§ 6100.183 Additional rights of the individual in a residential facility

As per the Final Rule, the following needs added: (e) an individual has the right to choose persons with whom to share a bedroom or to not share a bedroom.

§ 6100.185 Informing of rights.

(a) The provider shall inform and explain in a manner and language preferred by the individual and persons designated by the individual, upon entry into the program and annually thereafter.

§ 6100.186. Role of family and friends.

We agree with PAR's comments.

§ 6100.221. Development of the PSP.

We agree with PAR's comments.

§ 6100.222. The PSP Process.

We agree with PAR's comments.

§ 6100.223 Content of PSP

The list of items in this section does not lend itself to shortening or simplifying the PSP document or process. While this is all important information to ensure a person's health, safety and welfare, the information needs to be divided between required content of the PSP document and information that a provider keeps about each person.

§ 6100.226. Documentation of support delivery.

For those with complex disabilities, there needs to be an understanding that waiver services can be used to maintain skills rather than progress always being expected.

§ 6100.261. Access to the community.

We agree with PAR's comments.

§ 6100.262. Employment

We agree with PAR's comments.

§ 6100.263. Education.

We appreciate and support the inclusion of post-secondary education as an option.

Transition should be replaced with Transition to a New Provider. This is to avoid confusion with transition services from school to adult life.

§ 6100.303. Reasons for a transfer or a change in a provider.

We agree with PAR's comments.

§ 6100.304. Written notice.

(a) If the individual chooses another provider, the PSP team shall provide written notice to the following at least thirty (30) days prior to the transition to a new provider or sooner if agreed by all parties.

POSITIVE INTERVENTION should be replaced with Positive Behavior Intervention

§ 6100.343. Prohibition of restraints.

We strongly support the prohibition of restraints unless there is a severe threat to the individual's safety or others.

§ 6100.401. Types of incidents and timelines for reporting.

(a)(7) Add "abandonment".

(a) (8) We agree with PAR's comment.

(a) (16) Incident reporting should only occur for significant prescription and over the counter medication errors that impact the health and safety of the individual.

§ 6100.402.

(a) Add abandonment and suicide.

§ 6100.442. Physical accessibility.

(b) A back up plan should assure availability of replacement or loaned equipment until the original equipment is repaired or replaced.

§ 6100.446. Facility Characteristics relating to size of facility.

(b) We support the program capacity of four.

§ 6100.462. Medication Administration.

We agree with PAR's comments.

§ 6100.571. Fee schedule rates.

We agree with The Arc PA's comments.

§ 6100.642. Assignment of rate.

We agree with The Arc PA's comments.

§ 6100.806. Vendor goods and services.

We agree with The Arc PA's comments.

As a member of the Imagine Different Coalition, The Arc of Greater Pittsburgh/ACHIEVA strongly supports the following comments:

§ 6100.900. This section applies to children under the age of 21 who have developmental disabilities as defined by the federal Developmental Disabilities Assistance and Bill of Rights Act, 42 USC 15002.102(8).

§ 6100.901. Permanency shall be a goal in all PSPs for children. Permanency means a living arrangement for children with the primary feature of an enduring and nurturing parental relationship facilitated by family support. Family living is the preferred permanency goal for minor children, and either family living or a small community home that meets the HCBS requirements of chapter 6100, along with a strong connection to family (as defined at 6100.3) is the preferred permanency goal for older youth. Permanency goals should also include maintaining sibling relationships whenever possible.

§ 6100.902. Children and youth with Developmental Disabilities may reside in congregate care facilities only when:

- (a) A Support Coordinator and/or TSM have been assigned to the child or youth.
- (b) The residential provider files a report identifying the child or youth with ODP and BHSL within ten days of placement, or of the effective date of these regulations, in a manner prescribed by ODP.
- (c) The child is listed on the emergency waiting lists of any waivers for which he or she is eligible.
- (d) The Support Coordinator or TSM ensures the development of a PSP that includes a permanency plan, consistent with the Department's Permanency Assessment and Planning Instrument. For children adjudicated dependent, any permanency plan developed by the child welfare agency shall be coordinated with the PSP.
- (e) The Department's Permanency Assessment and Planning Instrument shall identify the permanency goal and plans to achieve it and include a detailed description of the barriers to permanency, the steps taken to address the barriers, and what, if any, funding or service availability change would allow for permanency.
- (f) For long-term placements made after the effective date of these regulations, the capacity of the facility is four or fewer, unless a regulatory waiver pursuant to section 6100.43 has been granted.
- (g) For placements made after the effective date of these regulations, the Support Coordinator, or TSM documents best efforts to achieve the permanency goals of the PSP before placement.
- (h) The Support Coordinator or TSM documents compliance with the PSP, including documentation of visits to the child or youth at the frequency required by the PSP.
- (i) The Permanency Assessment and Planning Instrument and the PSP are updated every three months until the permanency goal has been achieved.

§ 6100.903. Parents or legal guardians of minor children are required members of the PSP Team. For youth 18-21 who are adjudicated dependent, the CYF agency representative is a required participant in the development of the PSP unless the youth objects. A form shall be provided to the youth to explain this right and to document an objection.

§ 6100.904. Training in permanency planning principles shall be a requirement for all Support Coordinators, TSMs, case managers, and residential program specialists who serve children and youth.

§ 6100.905. Support Coordinators, TSMs and residential facility providers shall ensure that all infants and toddlers they serve are referred to Early Intervention programs.

§ 6100.906. Support Coordinators, TSMs and residential facility providers shall ensure that all primary and secondary school eligible children:

(a) are enrolled in the local school district in which they live or in another responsible school district;

(b) have an educational decision-maker consistent with the requirements of the IDEA, or a request for an educational decision-maker has been made to the responsible school district or court. Residential providers may not make attendance at an on-grounds school, or a school operated by the residential provider, a condition of the residential placement, and must so inform the educational decision-makers for each child.

§ 6100.907. Providers must ensure that the health and medical needs of participants are met. In the case of children and youth with long-term medical needs, whose residence is covered by these regulations:

(a) At least monthly oversight by a healthcare professional is required;

(b) A health-care plan, identifying all the child's medical needs, including but not limited to amount and frequency of nursing, home health aides, therapies, medications, behavioral supports, durable medical equipment and regularly scheduled physician visits, shall be signed by a physician, implemented, and kept in the residential provider's and Support Coordinator or TSM's file.

(c) For children and youth who have been adjudicated dependent, the health-care plan shall be shared with the county child welfare agency unless sharing such document is otherwise restricted by law.

§ 6100.908. Department offices, including at least ODP, OCYF, OLTL and OMAP shall enter into memoranda of understanding (MOUs) to ensure that the resources of all systems are available to meet the permanency and transition needs of dependent children and youth. The MOUs should include resolution of conflicting licensing requirements, delegation of funding responsibilities between the agencies, sharing of information, and consideration of creative options that promote permanency.

§ 6100.909. Children and youth with developmental disabilities who are adjudicated dependent and are receiving services covered by these regulations shall be assured the following:

(a) ODP shall assign a Support Coordinator or other case manager.

(b) ODP shall assign a Support Coordinator or other case manager.

(c) The county child welfare agency and the ODP or delegated county agency shall, upon the child's sixteenth birthday or before placement in a congregate care facility, whichever occurs first, enter into an agreement consistent with the MOU to meet the permanency goals of the PSP as soon as possible and to ensure a smooth transition to adult services.

(d) If there is a dispute between the agencies about responsibility for payment for needed services a DHS designee will resolve the dispute in accordance with the MOU.

§ 6100.910. For older youth, the PSP must include services and supports that are needed to pursue competitive, integrated, employment in the present, or are needed to improve the ability to pursue such employment in the future."

Section 6100.223(11) shall not be applied to children.

Submitted by Nancy Murray
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