

Kroh, Karen #3160

#14-540 (186)

From: Mochon, Julie
Sent: Tuesday, December 20, 2016 9:07 AM
To: Kroh, Karen
Subject: FW: PACA MH/DS 6100 Comments
Attachments: PACA MHDS 6100 Comments.pdf

From: Lucy Kitner [<mailto:lkitner@pacounties.org>]
Sent: Tuesday, December 20, 2016 8:52 AM
To: Mochon, Julie
Subject: PACA MH/DS 6100 Comments

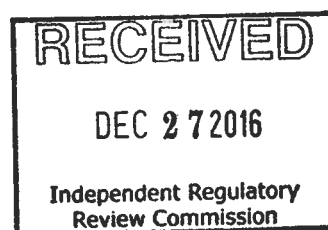
Hi:

Please see attached. Let us know if you have any questions.

Thanks,

Lucy

Lucy Mullis Kitner
Executive Director
Pennsylvania Association of County Administrators of Mental Health and Developmental Services
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Harrisburg, PA 17106-0769
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PACA MH/DS
PENNSYLVANIA ASSOCIATION OF COUNTY
ADMINISTRATORS OF MENTAL HEALTH
AND DEVELOPMENTAL SERVICES

December 20, 2016

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

Sent by e-mail: jmochon@pa.gov
Regarding: Reference Regulation No. 14-540

Dear Ms. Mochon:

Thank you for the opportunity to comment on the proposed regulations filed under 14-540 on behalf of the Pennsylvania Association of County Administrators of Mental Health and Developmental Services (PACA MH/DS). Our association is an affiliate of the County Commissioners Association of Pennsylvania (CCAP) and represents the 48 county-based entities responsible for the administration of mental health and intellectual disability services. In addition, our membership includes 21 behavioral HealthChoices oversight agencies and a majority of the Supports Coordination Organizations (SCO) for intellectual disability services.

The focus of our review was the 6100 regulations that form the foundation of all programmatic and fiscal regulations for community intellectual disability services. Although our review includes some specific recommendations and requests for clarification, we would be remiss not to note the worthy components and to applaud the approach the Department has taken in this process.

PACA MH/DS commends the formation of a foundational set of regulations applicable to all Home Community Based Service, (HCBS), regardless of whether such services are funded by Waiver funds or County base funding. The approach reinforces the focus on crucial components of the care system such as person centered planning and collaboration of all services and supports within the Person Centered Support Plan. We support the simplification and organization of training requirements across all HCBS, and support the distinction between

direct care staff training requirements versus agency management staff requirements. PACA MH/DS appreciates that the proposed regulations are compiled in a way that ties together the individual's plan, best practices, the use of behavioral plans, restrictive plans and that the proposed regulations reinforce the importance and interplay of all these key components.

Other new aspects incorporated in the regulations will serve to re-invigorate the service delivery system, such as the Innovation Project that will showcase promising and best practices while furthering local collaborative efforts regarding supports and services. PACA MH/DS supports the regulations' focus on actions that can promote quality. This approach changes the system focus from regulatory compliance to outcomes.

The remaining comments will reference the section of the applicable regulation.

6100 Definitions – Family

Recommend dropping the word "natural" and state it as "A person that the individual considers to be part of his core family unit."

6100 Definitions – Provider

Recommend incorporating this wording in the service program sections of the regulations. Under the service program regulations, we recommend maintaining the language regarding an agreement with the F specific to the services rendered in addition to the wording provided in 6100 Provider definition.

The recommendation is due to concerns regarding the potential lack of quality protections to an individual if the caregiver is not included in the standards. Issues with services provided to an individual may rise to the level of a quality of care concern, without necessarily rising to the level of an Adult Protective Services referral or fraud investigation and thus the proposed regulations may not have sufficient quality protections.

6100.44 Innovation project. Section (a).

Recommend the provider submit their innovation proposal to the designated management entity in addition to the Department.

6100.24 Quality management.

Recommend an implementation timeframe for the revised requirements of a quality management plan to be completed within 90 days of the regulation effective date or start-up of the provider operations.

6100.47 Criminal history checks.

Recommend review of the Commonwealth Court Ruling striking lifetime ban. Currently appears that the check must be completed, which may be called into question with the ruling.

6100.51 Grievances.

Recommend changing the term of "grievance" to "complaint" consistently throughout regulations. In the healthcare industry, grievance implies a denial of services.

6100.52 Rights team.

Recommend to match the language in service program regulations.

6100.52 Rights team. Section (a)

Recommend deleting the second sentence while maintaining the first sentence to read, "The provider shall have a rights team."

6100.52 Rights team. Section (c)

Recommend striking supports coordinator, targeted service manager and designated entity. The section goes to the particulars with an individual rather than an overall review. Recommend clarification in regards to approach to individual rights and systemic reviews.

6100.54 Recordkeeping

Recommend language be added to notify the Department how and where records will be stored if an when an entity ceases operations.

6100.82 HCBS documentation.

Recommend changing the title to Qualification documentation.

6100.83 Submission of HCBS qualification documentation.

Recommend changing the title to Submission of HCBS requalification documentation.

6100.143 Annual training.

Recommend including first aid, CPR and Heimlich technique be in the required training in addition to the citations currently in the service program regulations.

Recommend moving training in the service program regulations to a training section rather than included under "Staffing section."

6100.143 Annual training. Section (b) (2) Clarify the agency's responsibility for consultants.

Recommend any licensed requirement be current.

6100.183 Additional rights of the individual in a residential facility.

Recommend inclusion of access to internet.

6100.184 Negotiation of choices.

This section identifies a systems management issue that requires training and support for the negotiation of choices, rights and risks. PACA MH/DS is willing to support an effort to address this systemic need.

6100.186 Role of family and friends.

Commend the inclusion of the phrase "at the direction of the individual" in regards to visits with family, friends and others,

6100.223 Content of the PSP.

Recommend reviewing whether all information is required in the PSP or as part of the client record in an effort to streamline the planning approach. Items (12) and (14) could be extensive, and contain more specificity than needed. Detailed information can be part of the record without being in the PSP. This may be especially relevant as ODP has stated their intention to modify and streamline the existing PSP format and thus these specific requirements may be in conflict with the ODP vision for a revised PSP.

TRANSITION 6100.301 Individual choice. Section (b)

Support this role as being appropriate for the supports coordinator.

POSITIVE INTERVENTION

The definition of "Positive Intervention" in this section includes the following language, "reinforcing positive behavior." Reinforcement is a concept and set of intervention strategies within Applied Behavior Analysis (ABA) and can be stated as a stimulus to increase the likelihood of a behavior. Example: it would be contraindicated to use food to reinforce positive behavior for an individual diagnosed with Prader-Willi syndrome. Consider striking the words "reinforcing positive behavior" or adding additional clarifying language.

INCIDENT MANAGEMENT 6100.401 Section (d)

Recommend clarification that notification of the outcome does not require disclosure of the details of the report.

Clarify who is responsible for honoring the request for incident management information. Recommend clarification on the intent of the standard due to the sensitive nature of information, particularly in regard to relatives who may be alleged perpetrators.

6100.405 Incident analysis. Sections (b) and (e)

Recommend clarification in regards to how to determine that the data is continuously analyzed. Is three months a sufficient review period?

6100.443 Access to the bedroom and the home.

Recommend review of the CMS guidance regarding the resolution of the individual's ability to access entry. PACA MH/DS believes this issue should be resolved at the PSP team level, not at the "waiver level" as the PSP must identify if the individual is able to independently have access. This approach will not require a restrictive procedures process or adversely affect the waiver due to individual circumstances.

6100.447 Facility characteristics relating to location of facility. Section (b).

Recommend creating standards for smaller development sites. The percentage identified does not work for sites with under 10 units and would prohibit any services at potential favorable sites. PACA MH/DS supports integration without saturation.

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It is PACA MH/DS understanding that federal law prohibits waiver payments for services provided in an ICF. Recommend reinforcing the prohibition of waiver services and funding in an ICF noting that the Department must approve any agreements to transition to waiver funding.

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Please confirm that the provider includes all HCBS services as defined. PACA MH/DS also is concerned that the Department create sufficient capacity to train all the individuals covered under this requirement.

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Recommend inverting the sentence to prevent any confusion. The sentence would read, "When ordered by the prescriber, crush or split the medication."

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Please clarify how (b) and (h) are to be validated or monitored.

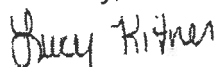
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PACA MH/DS very much appreciates the opportunity to collaborate during this time of systemic change. We commend the department for integrating throughout the proposed regulations the foundational principles of person centered planning, system quality and values stated in *Everyday Lives*. PACA MH/DS recognizes that department is proposing regulations that can withstand changes in administrations and funding streams while maintaining the integrity of the foundational principles.

Please contact us if there is any issue you would like to discuss further.

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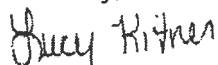
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