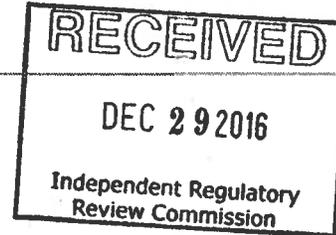


3160

14-540-306

Kroh, Karen

From: Mochon, Julie
Sent: Wednesday, December 21, 2016 8:55 AM
To: Kroh, Karen
Subject: FW: Comments
Attachments: The Arc of Chester County Comments on 6100.pdf



From: Jeanne Meikrantz [<mailto:jmeikrantz@arcofchestercounty.org>]
Sent: Tuesday, December 20, 2016 7:09 PM
To: Mochon, Julie
Cc: Jeanne Meikrantz
Subject: Comments

Dear Julie,

Please find attached The Arc of Chester County's comments on the draft 6100 regulations. Please let me know if you have any questions as you review the attached comments.

I hope you have a wonderful holiday and a very happy new year!!

Thanks,

Jeanne

Jeanne Meikrantz | Executive Director
The Arc of Chester County
900 Lawrence Drive | West Chester, PA. 19380
(t) 610-696-8090, ext. 203 | (f) 610-696-8300
jmeikrantz@arcofchestercounty.org | www.arcofchestercounty.org

This Arc of Chester County e-mail message, including any attachments, is intended for the sole use of the individual(s) and entity(ies) to whom it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you are not the intended addressee, nor authorized to receive for the intended addressee, you are hereby notified that you may not use, copy, disclose or distribute to anyone this e-mail message including any attachments, or any information contained in this e-mail message including any attachments. If you have received this e-mail message in error, please immediately notify the sender by reply e-mail and delete the message. Thank you very much.



Achieve with us.

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

Re: Comments on Chapter 6100 – Support for Individuals with an Intellectual Disability or Autism.

Dear Julie:

Thank you for the opportunity to provide comments and make recommendations on Chapter 6100 – Support for Individuals with an Intellectual Disability or Autism. It is evident that a significant amount of time and thought went into drafting the 6100 regulations. We appreciate the Departments desire to improve consistency and reduce redundancy, burdens and costs.

Additionally, we are in total support of the proposed limits on the use of restraints to only emergency situations. The use of restraints has a disturbing history of harming individuals with intellectual and developmental disabilities, restricting their rights and choice in their own homes and communities. We have read The Arc of Pennsylvania's comments and we support the comments they provided.

In the background section of the cover letter and in the regulations it is evident that the intent of the 6100 regulations is multi-purpose. While we strongly agree with repealing chapter 5100 and amending portions of the four chapters to reduce duplication and administrative burdens it does not appear that the regulations as drafted with those goals. The proposed regulations appear to increase burdens and costs and also appear to create a system focused on tracking tasks versus increasing family based models and improving quality services. We are providing comments for your review and consideration where the regulations are unclear or where they appear to be counter-productive to supporting the Department goals, appear geared towards licensed providers and are problematic for small and/or unlicensed service providers and settings/ family based models of service delivery.

We will make every effort to highlight the areas that appear to increase administrative burdens, costs and reduce the positive impacts of Everyday Lives. We will also make every effort to highlight areas in the draft regulations that will limit the provider's ability to focus on quality service delivery and the Departments initiatives. As an unlicensed provider and a provider of participant directed -services through the Agency With Choice model as well as an advocacy organization the draft regulations are concerning and appear to have significant fiscal impacts to these provider types. We continue to be concerned about the unlicensed provider systems



The mission of The Arc of Chester County is to advocate, educate and provide services to empower individuals with disabilities and their families to enhance the quality of their lives. The official registration and financial information of The Arc of Chester County may be obtained from the Pennsylvania Department of State by calling toll free within Pennsylvania 1-800-732-0999. Registration does not imply endorsement. The Arc of Chester County is a 501(c)(3) nonprofit organization—contributions to which are tax deductible to the fullest extent permitted by law.

900 Lawrence Drive | West Chester, PA 19380 | T 610 696-8090 | F 610-696-8300 | www.arcofchestercounty.org | info@arcofchestercounty.org

The Arc of Chester County is affiliated with The Arc of Pennsylvania, The Arc of The United States, and The United Way.

and the current access problems that are driving individuals and families to higher cost licensed services. These draft regulations will aggravate that trend due to the increased requirements on training and most other sections of the draft regulations. There also appears to be significant fiscal impacts to the Department in order to ensure compliance to the regulations.

Please find below our comments and recommendations for your consideration.

6100.1. Purpose (a) and (b)

The Language should be consistent with the CMS Community Rule language for Home and Community Based Services (HCBS). CMS uses the term "services" while these regulations use the term "supports." The term service indicates a contractual agreement for payment, while supports could be and often means an unpaid support which we hope is not going to be regulated. Similar the term for Targeted Support Management does not appear to align with the current term and state plan, "Targeted Service Management". Finally, base funded services are included in the chapter however in the *Summary of Major Revisions* in the preamble it is noted that the 4300 regulations are still applicable.

Recommendations for 6100.1:

1. Use term Services consistently and solely throughout the chapter
2. Clarify and revise the inclusion of base funded services and the applicability of the 4300 regulations specifically noted below.

Under "*Summary of major revisions*" the 6100 regulations appear to reinstate chapter 4300 for all base funded services by indicating "specifically the fiscal operations of the programs continue to be regulated under Chapter 4300". In chapter 5100 the 4300 regulations were only applicable to base funded services when the provider did not participate in the waiver program and provided base only services and did not have a state set waiver rate for the same service or the service was not a waiver eligible service. If the 4300 regulations will now be applicable for all base funded services this will be a significant change for all stakeholders and particularly complicated for ODP. If counties are able to set rates again under the 4300 regulations when there is already a state set waiver rate for that same service for the provider the impacts will be significant (promise and rate load implications will be significant and additional administrative burdens to providers and counties will result). If this is not the intent of the statement in the preamble we respectfully recommend the language be changed to reflect the limitations to the applicability of the 4300 regulations as noted in chapter 5100.

6100.2. Applicability

There is no notation for inclusion of the new population for children birth through 7 years of age that have a developmental delay but are not diagnosed with ID and or Autism. 6100.2 (c) same comments as noted above regarding the 4300 regulations. We are in total agreement that in 6100.2. (9) The vendor fiscal employer agent model was removed from this chapter. We are not in agreement that AWC, OHCDs and Vendor services remain in the draft regulations.

Recommendations for 6100.2:

1. Clarify and revise the inclusion of base funded services and the applicability of the 4300 regulations specifically noted above in 6100.1.
2. Clarify the inclusion of the proposed new population in (a), (b) and (c).
3. Recommend the removal of Agency With Choice and Organized Health Care Delivery Services (OHCDS) from the chapter so all administrative services are managed outside of this chapter and for consistently with administrative services by the Department. Administrative Entity and VF/EA services are not included in the chapter therefore the AWC and OHCDS administrative services should not be included. The development of a separate agreement for administrative service providers should be consistent and if done outside of the 6100 regulations it can reduce regulatory burdens, establish consistency and allow flexibility to the Department to revise the agreements as changes are needed or occur. There are now no protections to those enrolled in the VF/EA model yet there are excessive regulations for those receiving and providing AWC and OHCDS.
4. Vendor services should be removed from the regulations as currently designed these provider types are simply payment agents and as such will be unable to or unwilling to provide the payments for these services if they are required to comply with these regulations. Again this could be managed outside of the regulations without causing provider access issues.

6100.3 Definitions:

The definition section appears to be missing a significant number of necessary definitions.

In addition the following definitions should be added or revised. These are not found in Webster's or if they are the definition for the Department is different. In addition since unlicensed providers, AWC, OHCDS and Vendor providers are included in this chapter and understanding that some definitions were probably not included because they are in other regulatory licensed chapters the providers noted above should not have to go look in another licensing chapters to find a definition. The following is a list of some definitions that should be included in this chapter however we strongly suggest that consideration be given to including a comprehensive list of definitions. Although that will increase the length of the regulations it will reduce questions and errors in application and implementation.

- Abuse
- Agency With Choice: Include only if AWC remains in the regulations however recommend removal of AWC from the regulations as previously noted
- Base-funded service
- Conflict of Interest
- Corrective action
- Dangerous behavior
- Designated managing entity

- Directed corrective action plan
- Exclusion
- Exploitation
- Incident
- Individual
- Lead designated managing entity
- Natural support
- Neglect
- Organized health care delivery service (OHCDs): Include only if OHCDs remains in the regulations however recommend removal as previously noted
- Person-Centered Support Plan (PSP)
- Physical restraint
- Positive Intervention
- Chemical restraint
- Dangerous behavior
- Mechanical restraint
- Physical restraint
- Pressure point techniques
- Provider
- Remediation action plan
- Restraint
- Seclusion
- Service (remove Support)
- Voluntary Exclusion
- Vacancy factor
- Volunteer

Recommendations for 6100.3:

1. All definitions for these regulations should be included in Chapter 6100.3, and the applicability of Chapter 6100 should be noted for each of the subsequent regulatory chapters.
2. Definitions should be consistent and clear with the intent to facilitate communication and understanding.
3. Include a comprehensive list of definitions in Chapter 6100 to promote clarity, consistency, and reduce administrative burden across all provider types, services and programs.
4. A clear purpose, definition and description on when volunteers are permissible needs to be included in the regulations. .

6100.41. Appeals

Recommendations for 6100.4:

1. Revise the title of 6100.41 to: "Pennsylvania Code Chapter 41" for clarification.

6100.42. Monitoring compliance

We recommend this section be called: Review of Provider Performance. This section should not be duplicative of other licensing regulations and should ensure a coordinated effort such that audits, fiscal reviews and monitoring assessments are not redundant or duplicative.

This section should also state that regularly scheduled monitoring assessment will be coordinated by a lead designated managing entity and not multiple designated managing entities if the provider encompasses multiple areas. This will also aid in the reduction of costs associated with multiple designated managing entities having to schedule and come for on-site reviews, including reduction in time and travel costs.

Recommendations for 6100.42:

(a) The Department and the designated managing entity may monitor compliance with this chapter at any time through an audit, provider monitoring or other monitoring method. This is far reaching. The regulation should describe scheduling/frequency of monitoring unless there is cause for additional monitoring.

While the department should periodically monitor performance of Lead Designated Entity, monitoring should generally be limited to only one monitoring entity.

(b) *Our comment:* Recommend deleting this paragraph, it is too vague.

(c) The provider shall cooperate with the Department and the designated managing entity and provide the requested compliance documentation in the format required by the Department ~~prior to, during, and following an audit, provider monitoring or other monitoring method.~~

Combine (c) & (d)

(e) The provider shall complete a corrective action plan for a violation or an alleged violation of this chapter in the time frame required by the Department.

Add: Within 45 days unless there is a health/safety reason for expedition.

(g) Recommend changing "violation" to "non-compliance".

(1) Recommend changing "educational" to "training".

6100.44. Innovation project

This section is a welcome change however appears to place administrative burdens on the Department's Deputy Secretary as noted in 15 (d). It is unusual for the Department to regulate itself in this manner.

Recommendations for 6100.44:

1. Remove 15 (d) 1-5

6100.45. Quality management.

This section is a necessary however of overly prescriptive and increases administrative burdens for providers of service particularly unlicensed providers and providers of OHCDS and vendor providers. We are pleased to see that AWC was removed from this section however again recommend that AWC be removed from the entire chapter. Letter (c) and (e) appear to be irrelevant as the plan requirements are so prescriptive that there will nothing to evaluate or revise related to the plan. The following are questions and concerns for consideration related to this section.

1. Incident Management- trend analysis including reporting, investigating, suspected causes and corrective action. While looking for trends is a great practice the language to "encompass a trend analysis and corrective action taken lends itself to providers spending more time documenting they performed a task versus spending the quality time doing the task.
2. Grievances: Same comment as above in #1.
3. Tracking informal comments by individuals, families, and others – again this will require documenting everything in order for the information to be available for QM – this will result in increased administrative burdens and costs and again the provider will spend valuable time tracking versus doing the good work that needs to be done.
4. Analysis of successful learning and application of training is difficult to document and again will result increased burdens and costs but not better outcomes. .
5. Staff satisfaction survey results and suggestions for improvement- While this is important providers should not be regulated on this issue. Some agencies may be restricted by ways to improve staff satisfaction. Areas such as employees not feeling appreciated could be addressed internally, but financial and other benefits are not in the providers control when the state set rates do not allow for a living wage or benefits.
6. Turnover rates by position and suspected causes – This is again not necessary in regulations and will increase burdens and costs.
7. Plan for systemic improvement – People are going to be spending more time working on data collection on internal measures than providing quality services and/or providing the training & support that employees need.

Recommendations for 6100.45:

1. Thank you for removing AWC from 6100.45. We request that AWC be removed from the chapter.
2. Revisit the entire section related to the increased administrative burdens and costs to providers in order to eliminate and/or reduce those burdens so quality management becomes a culture versus a documentation/tracking process.
3. OHCDS and Vendor service providers should also be excluded from this section at a minimum and preferably from the chapter.
4. Remove (c) and (e)

6100.46: Protective Services: It is unclear on the need for the notification in section (c) for suspected abuse or alleged abuse unless that notification is in the Departments identified system (i.e., the Department, managing entity, county government office responsible for the intellectual disability program) If this is only alleged, why is everyone being notified immediately instead of the 24 hour time frame of notification through EIM? This will be an increase in administrative activity and costs to all parties.

Recommendation for 6100.45:

1. Revisit and revise notification in (c) to align with the current IM policy notification requirements.

6100.47: Criminal History Check: If a family member is listed in the health promotions section of the PSP, is a criminal history check needed even though he/she is not employed by the agency? Can this person be considered a natural support? This section needs to be clarified on who is not required to have a criminal history check? (b1 and d).

Instead of using the terminology of household member, would "person" who has direct contact with an individual be a less restrictive term? Someone may not live in the household but will have regular ongoing direct contact with an individual (example: someone providing mileage)

Recommendation for 6100.47

1. Revisit this section to clarify who needs criminal history checks to ensure the providers are running them on the right people and no one providing services is included that should not be and no one is excluded that should be.
2. (b) (1): Change to HCBS paid household members
3. (b) (5) delete volunteers, regulations should only apply to those providing HCBS services.

6100.50: Communication: It mentions that the individual shall be provided with the assistive technology necessary to effectively communicate – This appears to be geared towards licensed providers. Who will pay/provide this in unlicensed settings?

Recommendation for 6100.50:

1. Exclude unlicensed providers, AWC, OHCDS and Vendor providers from this section. Again AWC, OHCDS and vendor providers should be removed from the chapter.

6100.51: Grievances; It will be difficult for providers to respond to an anonymous source. What is the difference between noting the investigation process and the actions to investigate? (g) (5) and (6)? What support will the department give for the time to complete thorough investigations? Responding to a grievance with information is different than completing an investigation where interviews of multiple people are required.

Recommendation for 6100.51

1. Revise section to address the above comments and eliminate increased burdens and costs.

6100.52: Rights team: Providers have processes in place to ensure rights are not violated so requiring through regulations that providers have a rights team (particularly unlicensed providers and AWC providers) appears to increase burdens and costs. The "Rights Team" responsibilities should be incorporated into the Incident Management team's responsibility to avoid duplication of effort.

The work of rights teams is duplicative of other committees including the individual's PSP team. The requirements are confusing especially considering the membership of the committee. This regulation is an example of requiring far more than necessary from agencies providing a small amount of waiver services especially if they do not allow restrictive interventions. For providers that do not allow restrictive interventions (2) is not applicable. Again this section appears to be geared to licensed providers.

Recommendation for 6100.52

1. Revise section to address issues identified above and to address burdens, costs and multiple provider types that are included in the chapter.

6100.85: Ongoing HCBS provider qualifications

What is meant by list of excludable persons?

What is a system for award management?

Recommendation for 6100.85:

1. Add definitions for excludable persons and system of award management

6100.141: Annual training plan: It appears that we will be required to give certificates for all employees for each training session. This will increase administrative burdens and increase costs when there are ways to effectively track and manage training on line. Who is qualified to train employees? Are there restrictions on training sources? Will the Department assist in providing trainings on required information so that each provider does not need to develop its

own curriculum for the things that are the same across the state? For example, is there something from the department that will ensure that all employees in every agency hear the same required content when it comes to recognizing abuse and neglect? Can the training plan be generic enough to allow for flexibility based on participant needs? Are there department specific core competencies for direct support professionals? Again this section appears to be geared towards licensed providers and is counter-productive to supporting unlicensed providers, family support models and AWC providers.

Recommendation for 6100.85

1. Remove AWC, OHCDs and Vendor services from this section
2. Eliminate certificates

6100.142 Orientation Program

With an extensive orientation program, will rates be adjusted to allow for all of the time that employees will be spending performing non-billable work and must be paid? Although it is important for all staff to know and support the mission of the agency, why are the individuals who are not working directly with individuals required to have the same orientation within the same time frame as those who are working with individuals? While we agree that all are mandated reporters, what benefit will it be in terms of learning about facilitating community integration for a payroll or billing specialist when the time may be needed for job specific training?

Recommendation for 6100.142

1. Revise this section to address the questions and concerns noted above.
2. Remove AWC, OHCDs and Vendor services from this section

6100.143 Annual Training: Requiring a specific amount of time for training is problematic and is not person centered. Quality versus quantity will result in higher quality service to an individual. The number of hours of training should be removed. If that remains it can present the following problems:

- 1) Lack of staffing to provide a necessary service when some agencies are already short-staffed.
- 2) Currently the rates do not allow for training time so requiring 24 hours will be a significant increase in costs.
- 3) Time spent on a topic does not guarantee a quality-presentation. Some people may spend time talking just to "put in time." In addition, some people are quick learners or may only need annual updates based on department/agency policy and law changes. Why should they be required to spend 8 hours annually on these topics?
- 4) What resources will be provided to providers to be sure that the content meets all of the required points of information?

- 5) Will rates be increased to cover the cost of training as this may double or triple what people were using before? 10 hours per DSP * 10 DSP = 100 hours, but 24 hours per DSP * 10 DSP = 240 hours + 12 hours per agency admin
- 6) If the 3 hour Mandated Reporter training from the University of Pittsburgh counts for 3 years, why can't that training be applied each year that it is valid?
- 7) Training of volunteers – 12 hours would be an additional hardship in terms of agency training and coordinating these efforts.

Recommendations for 6100.143:

1. Develop Department training for the 4 core trainings
2. Do not specify a specific number of hours for training but rather require that staff are trained to meet the needs of the person
3. Remove administrative staff, other staff and volunteers from the required training hours
4. Remove AWC, OHCDs and Vendor services from this section and preferable the regulations.

6100.186 Role of family and friends: This may be difficult for certain services depending on how the outcome and actions needed are written in the PSP. If the outcome is to make money, it may not be appropriate to setup appointments to see friends. What support will providers be given to make the accommodations necessary for family and friends to participate in decision making, planning, and other activities? Phone conferences are good, but if there needs to be transportation to a meeting unlicensed providers, AWC, OHCDs and Vendor service providers should not be required to transport family members or other designated people to meetings. Again this section appears to be geared to licensed providers.

Recommendation for 6100.186

1. Revise this section to address the questions and concerns noted above.

6100.221 Development of the PSP: Why must all revisions be based on an assessment? If a family decides that they do not need 20 days of respite, but rather 10, what is the need for the assessment? This creates additional paperwork for the provider and more time spent on paperwork rather than providing quality services.

Recommendation for 6100.221

1. Revise this section to address the questions and concerns noted above.

6100.223 Content of the PSP: Are there going to be templates or an updated PSP in HCSIS to capture all of the required information? In terms of the goals and preferences, must all items noted in (3) be reflected? For example, someone may not wish to extend his/her education. Does that need to be noted somewhere to ensure compliance with the requirements is met? How much flexibility will be allowed in the frequency section? We agree that this is necessary, but would like to know how this would actually be implemented. In terms of opportunities for new or continued community participation, how would that be noted? Would the team need

to submit a revision (an assessment) for each new opportunity or could a generic participated in community opportunities be sufficient?

Recommendation for 6100.223

3. Revise this section to address the questions and concerns noted above.

6100.226 Documentation of support delivery: Thank you for moving progress notes to quarterly!!

6100.263 Education: Are there any limits to the amount of money for this? If home adaptations, vehicle adaptations, specialized supplies have limits, then why doesn't education? The Department is willing to pay over \$200k over 4 years for education? What are the means to justify if the requirements have been met to reimburse the University for the service? Who qualifies the university?

Recommendation for 6100.263

1. Revise this section to address the questions and concerns noted above

6100.343 Prohibition of Restraints: 6 – Manual Restraint- No more than 15 minutes – This may need to be clarified as the sum of 15 minutes or 1 15-minute restraint within 2 hours. Are the reporting requirements the same that a restraint of more than 30 seconds is reportable?

Recommendation for 6100.343

1. Revise this section to address the questions and concerns noted above.

6100.461 Self-administration: It is helpful to have it clearly spelled out in the PSP that the individual can self-medicate. In unlicensed settings and AWC who is responsible to assess if the individual can self-medicate if the individual lives alone or with a roommate since those providers do not have access to nurses?

6100.462 Medication administration

B2 – An employee who is not licensed cannot administer medication and is employed by an unlicensed provider. Unlicensed providers cannot be required to allow employees to administer medications, especially given there is no training available or approved by the Nursing Board for unlicensed providers.

Recommendation for 6100.462

1. Revise this section to address the questions and concerns noted above and to note this section is for licensed providers.
2. Remove unlicensed providers, AWC, OHCDs and vendors from this section.

6100.470 Exception for family members: Family members who are rendering an authorized service on the individual's PSP will not be able to administer medication while rendering a paid service unless they are licensed. By including this in regulation it gives the perception that medication can be administered in unlicensed settings and increases liability for providers and the Department. Without the training or the oversight by licensed nurses insurance will not be able to be secured or maintained.

Recommendation for 6100.470

6100.482. Payment: Chapter 1101 or 1150 was written for medical services and should not be applicable to HCBS services. If written well Chapter 6100 and other agreements should cover HCBS.

6100.802. Agency With Choice: It is much appreciated that only certain sections of these regulations apply to AWC providers however this chapter is geared toward licensed providers and is counter-productive to supporting self - directed services and family based models as noted earlier. If the Department elects to keep the AWC providers in this chapter then other sections should also be excluded. Challenge in documenting the 24 hours when Managing Employers are able to participate in the training of SSWs – are they now qualified in assisting with training? Since Managing Employers work with the individual and are considered volunteers, how does the Department propose 12 hours of training for MEs? Will rates be adjusted to cover the costs to manage and train the Managing Employers, as this will be a large administrative burden?

Are Managing Employers now required to have a full background check? What will assist providers with these additional costs? Child abuse clearances can take 2-6 weeks. For a Managing Employer of a minor, are they not able to begin their duties as a Managing Employer until his/her background checks come in? Should providers then wait to complete orientation until a successful background check has been completed?

At times, the Managing Employer will request a team meeting or revision based on need, such as in relation respite or a vendor service such as mileage or public transportation. Will the provider be required then to complete an assessment when the Managing Employer when a Managing Employer requests a change to these areas?

Section 6100.183 should not apply to AWC since it is for a residential facility

Recommendation for 6100.802

1. Remove AWC from 6100 regulations as noted in previous comments. A separate agreement for AWC administrative providers should be developed.

2. If AWC remains in Chapter 6100 remove 6100.48, 6100.52, 6100.55, 6100.141-144, 6100.405 and 6100.183 at a minimum.

6100.804. OHCDS: The OHCDS should not be responsible for ensure that the vendors are qualified based on the requirements in the regulations with the exception of transportation mile. Since the service coordinators are required to get bids and collect the preliminary information, the county office/managing entity should be the one to ensure that the vendor is qualified as they collect the information in order to authorize the service and they maintain the documentation.

The OHCDS should not provide an attestation that the cost of the good or service is the same or less as the cost charged to the general public. The OHCDS receives the invoice from the managing entity or county office, who authorized the amount, and thus, they should be the one to confirm that the service is the same cost or less than the general public.

Recommendation for 6100.804:

1. Removal of OHCDS from 6100 regulations as noted in previous comments. A separate agreement for OHCDS administrative service providers should be developed.
3. If OHCDS remains in Chapter 6100 remove all training sections and 6100.48, 6100.52, 6100.55, 6100.141-144, 6100.405 and 6100.183 at a minimum.

6100.806 Vendor goods and services: Who will confirm that the respite camps are fulfilling the requirements for training, individual rights, PSP, positive interventions, incident management, and medication? Some respite camps are seasonal, so how could they meet every 3 months?

Most vendors do not access the individual's PSP so how would they be able to complete the appropriate support delivery documentation?

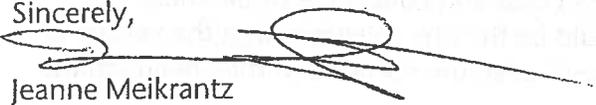
How can a vendor of a home adaptation, specialized supplies, and vehicle adaptation be required to perform 12 hours of training per year? What happens when vendors provide services for multiple providers? How would providers know which vendors were trained and not trained?

Recommendation for 6100.806:

1. Removal of Vendor services from 6100 regulations as noted in previous comments. A separate agreement for vendor providers should be developed.
4. If vendor services remains in Chapter 6100 remove all training sections and 6100.48, 6100.52, 6100.55, 6100.141-144, 6100.405 and 6100.183 at a minimum.

Thank you for the opportunity to comment. We look forward to working with the Department to address the questions and concerns related to Chapter 6100 regulations. If you have any questions regarding our comments please do not hesitate contacting me at 610-696-8090 ext. 203 or jmeikrantz@arcofchestercounty.org

Sincerely,



Jeanne Meikrantz
Executive Director



Achieve with us.

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

Re: Comments on Chapter 6100 – Support for Individuals with an Intellectual Disability or Autism.

Dear Julie:

Thank you for the opportunity to provide comments and make recommendations on Chapter 6100 – Support for Individuals with an Intellectual Disability or Autism. It is evident that a significant amount of time and thought went into drafting the 6100 regulations. We appreciate the Departments desire to improve consistency and reduce redundancy, burdens and costs.

Additionally, we are in total support of the proposed limits on the use of restraints to only emergency situations. The use of restraints has a disturbing history of harming individuals with intellectual and developmental disabilities, restricting their rights and choice in their own homes and communities. We have read The Arc of Pennsylvania's comments and we support the comments they provided.

In the background section of the cover letter and in the regulations it is evident that the intent of the 6100 regulations is multi-purpose. While we strongly agree with repealing chapter 5100 and amending portions of the four chapters to reduce duplication and administrative burdens it does not appear that the regulations as drafted with those goals. The proposed regulations appear to increase burdens and costs and also appear to create a system focused on tracking tasks versus increasing family based models and improving quality services. We are providing comments for your review and consideration where the regulations are unclear or where they appear to be counter-productive to supporting the Department goals, appear geared towards licensed providers and are problematic for small and/or unlicensed service providers and settings/ family based models of service delivery.

We will make every effort to highlight the areas that appear to increase administrative burdens, costs and reduce the positive impacts of Everyday Lives. We will also make every effort to highlight areas in the draft regulations that will limit the provider's ability to focus on quality service delivery and the Departments initiatives. As an unlicensed provider and a provider of participant directed -services through the Agency With Choice model as well as an advocacy organization the draft regulations are concerning and appear to have significant fiscal impacts to these provider types. We continue to be concerned about the unlicensed provider systems



The mission of The Arc of Chester County is to advocate, educate and provide services to empower individuals with disabilities and their families to enhance the quality of their lives. The official registration and financial information of The Arc of Chester County may be obtained from the Pennsylvania Department of State by calling toll free within Pennsylvania 1-800-732-0999. Registration does not imply endorsement. The Arc of Chester County is a 501(c)(3) nonprofit organization—contributions to which are tax deductible to the fullest extent permitted by law.

900 Lawrence Drive | West Chester, PA 19380 | T 610 696-8090 | F 610-696-8300 | www.arcofchestercounty.org | info@arcofchestercounty.org

The Arc of Chester County is affiliated with The Arc of Pennsylvania, The Arc of The United States, and The United Way.

and the current access problems that are driving individuals and families to higher cost licensed services. These draft regulations will aggravate that trend due to the increased requirements on training and most other sections of the draft regulations. There also appears to be significant fiscal impacts to the Department in order to ensure compliance to the regulations.

Please find below our comments and recommendations for your consideration.

6100.1. Purpose (a) and (b)

The Language should be consistent with the CMS Community Rule language for Home and Community Based Services (HCBS). CMS uses the term "services" while these regulations use the term "supports." The term service indicates a contractual agreement for payment, while supports could be and often means an unpaid support which we hope is not going to be regulated. Similar the term for Targeted Support Management does not appear to align with the current term and state plan, "Targeted Service Management". Finally, base funded services are included in the chapter however in the *Summary of Major Revisions* in the preamble it is noted that the 4300 regulations are still applicable.

Recommendations for 6100.1:

1. Use term Services consistently and solely throughout the chapter
2. Clarify and revise the inclusion of base funded services and the applicability of the 4300 regulations specifically noted below.

Under "*Summary of major revisions*" the 6100 regulations appear to reinstate chapter 4300 for all base funded services by indicating "specifically the fiscal operations of the programs continue to be regulated under Chapter 4300". In chapter 5100 the 4300 regulations were only applicable to base funded services when the provider did not participate in the waiver program and provided base only services and did not have a state set waiver rate for the same service or the service was not a waiver eligible service. If the 4300 regulations will now be applicable for all base funded services this will be a significant change for all stakeholders and particularly complicated for ODP. If counties are able to set rates again under the 4300 regulations when there is already a state set waiver rate for that same service for the provider the impacts will be significant (promise and rate load implications will be significant and additional administrative burdens to providers and counties will result). If this is not the intent of the statement in the preamble we respectfully recommend the language be changed to reflect the limitations to the applicability of the 4300 regulations as noted in chapter 5100.

6100.2. Applicability

There is no notation for inclusion of the new population for children birth through 7 years of age that have a developmental delay but are not diagnosed with ID and or Autism. 6100.2 (c) same comments as noted above regarding the 4300 regulations. We are in total agreement that in 6100.2. (9) The vendor fiscal employer agent model was removed from this chapter. We are not in agreement that AWC, OHCDs and Vendor services remain in the draft regulations.

Recommendations for 6100.2:

1. Clarify and revise the inclusion of base funded services and the applicability of the 4300 regulations specifically noted above in 6100.1.
2. Clarify the inclusion of the proposed new population in (a), (b) and (c).
3. Recommend the removal of Agency With Choice and Organized Health Care Delivery Services (OHCDS) from the chapter so all administrative services are managed outside of this chapter and for consistently with administrative services by the Department. Administrative Entity and VF/EA services are not included in the chapter therefore the AWC and OHCDS administrative services should not be included. The development of a separate agreement for administrative service providers should be consistent and if done outside of the 6100 regulations it can reduce regulatory burdens, establish consistency and allow flexibility to the Department to revise the agreements as changes are needed or occur. There are now no protections to those enrolled in the VF/EA model yet there are excessive regulations for those receiving and providing AWC and OHCDS.
4. Vendor services should be removed from the regulations as currently designed these provider types are simply payment agents and as such will be unable to or unwilling to provide the payments for these services if they are required to comply with these regulations. Again this could be managed outside of the regulations without causing provider access issues.

6100.3 Definitions:

The definition section appears to be missing a significant number of necessary definitions.

In addition the following definitions should be added or revised. These are not found in Webster's or if they are the definition for the Department is different. In addition since unlicensed providers, AWC, OHCDS and Vendor providers are included in this chapter and understanding that some definitions were probably not included because they are in other regulatory licensed chapters the providers noted above should not have to go look in another licensing chapters to find a definition. The following is a list of some definitions that should be included in this chapter however we strongly suggest that consideration be given to including a comprehensive list of definitions. Although that will increase the length of the regulations it will reduce questions and errors in application and implementation.

- Abuse
- Agency With Choice: Include only if AWC remains in the regulations however recommend removal of AWC from the regulations as previously noted
- Base-funded service
- Conflict of Interest
- Corrective action
- Dangerous behavior
- Designated managing entity

- Directed corrective action plan
- Exclusion
- Exploitation
- Incident
- Individual
- Lead designated managing entity
- Natural support
- Neglect
- Organized health care delivery service (OHCDS): Include only if OHCDS remains in the regulations however recommend removal as previously noted
- Person-Centered Support Plan (PSP)
- Physical restraint
- Positive Intervention
- Chemical restraint
- Dangerous behavior
- Mechanical restraint
- Physical restraint
- Pressure point techniques
- Provider
- Remediation action plan
- Restraint
- Seclusion
- Service (remove Support)
- Voluntary Exclusion
- Vacancy factor
- Volunteer

Recommendations for 6100.3:

1. All definitions for these regulations should be included in Chapter 6100.3, and the applicability of Chapter 6100 should be noted for each of the subsequent regulatory chapters.
2. Definitions should be consistent and clear with the intent to facilitate communication and understanding.
3. Include a comprehensive list of definitions in Chapter 6100 to promote clarity, consistency, and reduce administrative burden across all provider types, services and programs.
4. A clear purpose, definition and description on when volunteers are permissible needs to be included in the regulations. .

6100.41. Appeals

Recommendations for 6100.4:

1. Revise the title of 6100.41 to: "Pennsylvania Code Chapter 41" for clarification.

6100.42. Monitoring compliance

We recommend this section be called: Review of Provider Performance. This section should not be duplicative of other licensing regulations and should ensure a coordinated effort such that audits, fiscal reviews and monitoring assessments are not redundant or duplicative.

This section should also state that regularly scheduled monitoring assessment will be coordinated by a lead designated managing entity and not multiple designated managing entities if the provider encompasses multiple areas. This will also aid in the reduction of costs associated with multiple designated managing entities having to schedule and come for on-site reviews, including reduction in time and travel costs.

Recommendations for 6100.42:

(a) The Department and the designated managing entity may monitor compliance with this chapter at any time through an audit, provider monitoring or other monitoring method. This is far reaching. The regulation should describe scheduling/frequency of monitoring unless there is cause for additional monitoring.

While the department should periodically monitor performance of Lead Designated Entity, monitoring should generally be limited to only one monitoring entity.

(b) *Our comment:* Recommend deleting this paragraph, it is too vague.

(c) The provider shall cooperate with the Department and the designated managing entity and provide the requested compliance documentation in the format required by the Department ~~prior to, during, and following an audit, provider monitoring or other monitoring method.~~

Combine (c) & (d)

(e) The provider shall complete a corrective action plan for a violation or an alleged violation of this chapter in the time frame required by the Department.

Add: Within 45 days unless there is a health/safety reason for expedition.

(g) Recommend changing "violation" to "non-compliance".

(1) Recommend changing "educational" to "training".

6100.44. Innovation project

This section is a welcome change however appears to place administrative burdens on the Department's Deputy Secretary as noted in 15 (d). It is unusual for the Department to regulate itself in this manner.

Recommendations for 6100.44:

1. Remove 15 (d) 1-5

6100.45. Quality management.

This section is a necessary however of overly prescriptive and increases administrative burdens for providers of service particularly unlicensed providers and providers of OHCDS and vendor providers. We are pleased to see that AWC was removed from this section however again recommend that AWC be removed from the entire chapter. Letter (c) and (e) appear to be irrelevant as the plan requirements are so prescriptive that there will nothing to evaluate or revise related to the plan. The following are questions and concerns for consideration related to this section.

1. Incident Management- trend analysis including reporting, investigating, suspected causes and corrective action. While looking for trends is a great practice the language to "encompass a trend analysis and corrective action taken lends itself to providers spending more time documenting they performed a task versus spending the quality time doing the task.
2. Grievances: Same comment as above in #1.
3. Tracking informal comments by individuals, families, and others – again this will require documenting everything in order for the information to be available for QM – this will result in increased administrative burdens and costs and again the provider will spend valuable time tracking versus doing the good work that needs to be done.
4. Analysis of successful learning and application of training is difficult to document and again will result increased burdens and costs but not better outcomes. .
5. Staff satisfaction survey results and suggestions for improvement- While this is important providers should not be regulated on this issue. Some agencies may be restricted by ways to improve staff satisfaction. Areas such as employees not feeling appreciated could be addressed internally, but financial and other benefits are not in the providers control when the state set rates do not allow for a living wage or benefits.
6. Turnover rates by position and suspected causes – This is again not necessary in regulations and will increase burdens and costs.
7. Plan for systemic improvement – People are going to be spending more time working on data collection on internal measures than providing quality services and/or providing the training & support that employees need.

Recommendations for 6100.45:

1. Thank you for removing AWC from 6100.45. We request that AWC be removed from the chapter.
2. Revisit the entire section related to the increased administrative burdens and costs to providers in order to eliminate and/or reduce those burdens so quality management becomes a culture versus a documentation/tracking process.
3. OHCDS and Vendor service providers should also be excluded from this section at a minimum and preferably from the chapter.
4. Remove (c) and (e)

6100.46: Protective Services: It is unclear on the need for the notification in section (c) for suspected abuse or alleged abuse unless that notification is in the Departments identified system (i.e., the Department, managing entity, county government office responsible for the intellectual disability program) If this is only alleged, why is everyone being notified immediately instead of the 24 hour time frame of notification through EIM? This will be an increase in administrative activity and costs to all parties.

Recommendation for 6100.45:

1. Revisit and revise notification in (c) to align with the current IM policy notification requirements.

6100.47: Criminal History Check: If a family member is listed in the health promotions section of the PSP, is a criminal history check needed even though he/she is not employed by the agency? Can this person be considered a natural support? This section needs to be clarified on who is not required to have a criminal history check? (b1 and d).

Instead of using the terminology of household member, would "person" who has direct contact with an individual be a less restrictive term? Someone may not live in the household but will have regular ongoing direct contact with an individual (example: someone providing mileage)

Recommendation for 6100.47

1. Revisit this section to clarify who needs criminal history checks to ensure the providers are running them on the right people and no one providing services is included that should not be and no one is excluded that should be.
2. (b) (1): Change to HCBS paid household members
3. (b) (5) delete volunteers, regulations should only apply to those providing HCBS services.

6100.50: Communication: It mentions that the individual shall be provided with the assistive technology necessary to effectively communicate – This appears to be geared towards licensed providers. Who will pay/provide this in unlicensed settings?

Recommendation for 6100.50:

1. Exclude unlicensed providers, AWC, OHCDS and Vendor providers from this section. Again AWC, OHCDS and vendor providers should be removed from the chapter.

6100.51: Grievances; It will be difficult for providers to respond to an anonymous source. What is the difference between noting the investigation process and the actions to investigate? (g) (5) and (6)? What support will the department give for the time to complete thorough investigations? Responding to a grievance with information is different than completing an investigation where interviews of multiple people are required.

Recommendation for 6100.51

1. Revise section to address the above comments and eliminate increased burdens and costs.

6100.52: Rights team: Providers have processes in place to ensure rights are not violated so requiring through regulations that providers have a rights team (particularly unlicensed providers and AWC providers) appears to increase burdens and costs. The "Rights Team" responsibilities should be incorporated into the Incident Management team's responsibility to avoid duplication of effort.

The work of rights teams is duplicative of other committees including the individual's PSP team. The requirements are confusing especially considering the membership of the committee. This regulation is an example of requiring far more than necessary from agencies providing a small amount of waiver services especially if they do not allow restrictive interventions. For providers that do not allow restrictive interventions (2) is not applicable. Again this section appears to be geared to licensed providers.

Recommendation for 6100.52

1. Revise section to address issues identified above and to address burdens, costs and multiple provider types that are included in the chapter.

6100.85: Ongoing HCBS provider qualifications

What is meant by list of excludable persons?

What is a system for award management?

Recommendation for 6100.85:

1. Add definitions for excludable persons and system of award management

6100.141: Annual training plan: It appears that we will be required to give certificates for all employees for each training session. This will increase administrative burdens and increase costs when there are ways to effectively track and manage training on line. Who is qualified to train employees? Are there restrictions on training sources? Will the Department assist in providing trainings on required information so that each provider does not need to develop its

own curriculum for the things that are the same across the state? For example, is there something from the department that will ensure that all employees in every agency hear the same required content when it comes to recognizing abuse and neglect? Can the training plan be generic enough to allow for flexibility based on participant needs? Are there department specific core competencies for direct support professionals? Again this section appears to be geared towards licensed providers and is counter-productive to supporting unlicensed providers, family support models and AWC providers.

Recommendation for 6100.85

1. Remove AWC, OHCDs and Vendor services from this section
2. Eliminate certificates

6100.142 Orientation Program

With an extensive orientation program, will rates be adjusted to allow for all of the time that employees will be spending performing non-billable work and must be paid? Although it is important for all staff to know and support the mission of the agency, why are the individuals who are not working directly with individuals required to have the same orientation within the same time frame as those who are working with individuals? While we agree that all are mandated reporters, what benefit will it be in terms of learning about facilitating community integration for a payroll or billing specialist when the time may be needed for job specific training?

Recommendation for 6100.142

1. Revise this section to address the questions and concerns noted above.
2. Remove AWC, OHCDs and Vendor services from this section

6100.143 Annual Training: Requiring a specific amount of time for training is problematic and is not person centered. Quality versus quantity will result in higher quality service to an individual. The number of hours of training should be removed. If that remains it can present the following problems:

- 1) Lack of staffing to provide a necessary service when some agencies are already short-staffed.
- 2) Currently the rates do not allow for training time so requiring 24 hours will be a significant increase in costs.
- 3) Time spent on a topic does not guarantee a quality-presentation. Some people may spend time talking just to "put in time." In addition, some people are quick learners or may only need annual updates based on department/agency policy and law changes. Why should they be required to spend 8 hours annually on these topics?
- 4) What resources will be provided to providers to be sure that the content meets all of the required points of information?

- 5) Will rates be increased to cover the cost of training as this may double or triple what people were using before? 10 hours per DSP * 10 DSP = 100 hours, but 24 hours per DSP * 10 DSP = 240 hours + 12 hours per agency admin
- 6) If the 3 hour Mandated Reporter training from the University of Pittsburgh counts for 3 years, why can't that training be applied each year that it is valid?
- 7) Training of volunteers – 12 hours would be an additional hardship in terms of agency training and coordinating these efforts.

Recommendations for 6100.143:

1. Develop Department training for the 4 core trainings
2. Do not specify a specific number of hours for training but rather require that staff are trained to meet the needs of the person
3. Remove administrative staff, other staff and volunteers from the required training hours
4. Remove AWC, OHCDs and Vendor services from this section and preferable the regulations.

6100.186 Role of family and friends: This may be difficult for certain services depending on how the outcome and actions needed are written in the PSP. If the outcome is to make money, it may not be appropriate to setup appointments to see friends. What support will providers be given to make the accommodations necessary for family and friends to participate in decision making, planning, and other activities? Phone conferences are good, but if there needs to be transportation to a meeting unlicensed providers, AWC, OHCDs and Vendor service providers should not be required to transport family members or other designated people to meetings. Again this section appears to be geared to licensed providers.

Recommendation for 6100.186

1. Revise this section to address the questions and concerns noted above.

6100.221 Development of the PSP: Why must all revisions be based on an assessment? If a family decides that they do not need 20 days of respite, but rather 10, what is the need for the assessment? This creates additional paperwork for the provider and more time spent on paperwork rather than providing quality services.

Recommendation for 6100.221

1. Revise this section to address the questions and concerns noted above.

6100.223 Content of the PSP: Are there going to be templates or an updated PSP in HCSIS to capture all of the required information? In terms of the goals and preferences, must all items noted in (3) be reflected? For example, someone may not wish to extend his/her education. Does that need to be noted somewhere to ensure compliance with the requirements is met? How much flexibility will be allowed in the frequency section? We agree that this is necessary, but would like to know how this would actually be implemented. In terms of opportunities for new or continued community participation, how would that be noted? Would the team need

to submit a revision (an assessment) for each new opportunity or could a generic participated in community opportunities be sufficient?

Recommendation for 6100.223

3. Revise this section to address the questions and concerns noted above.

6100.226 Documentation of support delivery: Thank you for moving progress notes to quarterly!!

6100.263 Education: Are there any limits to the amount of money for this? If home adaptations, vehicle adaptations, specialized supplies have limits, then why doesn't education? The Department is willing to pay over \$200k over 4 years for education? What are the means to justify if the requirements have been met to reimburse the University for the service? Who qualifies the university?

Recommendation for 6100.263

1. Revise this section to address the questions and concerns noted above

6100.343 Prohibition of Restraints: 6 – Manual Restraint- No more than 15 minutes – This may need to be clarified as the sum of 15 minutes or 1 15-minute restraint within 2 hours. Are the reporting requirements the same that a restraint of more than 30 seconds is reportable?

Recommendation for 6100.343

1. Revise this section to address the questions and concerns noted above.

6100.461 Self-administration: It is helpful to have it clearly spelled out in the PSP that the individual can self-medicate. In unlicensed settings and AWC who is responsible to assess if the individual can self-medicate if the individual lives alone or with a roommate since those providers do not have access to nurses?

6100.462 Medication administration

B2 – An employee who is not licensed cannot administer medication and is employed by an unlicensed provider. Unlicensed providers cannot be required to allow employees to administer medications, especially given there is no training available or approved by the Nursing Board for unlicensed providers.

Recommendation for 6100.462

1. Revise this section to address the questions and concerns noted above and to note this section is for licensed providers.
2. Remove unlicensed providers, AWC, OHCDs and vendors from this section.

6100.470 Exception for family members: Family members who are rendering an authorized service on the individual's PSP will not be able to administer medication while rendering a paid service unless they are licensed. By including this in regulation it gives the perception that medication can be administered in unlicensed settings and increases liability for providers and the Department. Without the training or the oversight by licensed nurses insurance will not be able to be secured or maintained.

Recommendation for 6100.470

6100.482. Payment: Chapter 1101 or 1150 was written for medical services and should not be applicable to HCBS services. If written well Chapter 6100 and other agreements should cover HCBS.

6100.802. Agency With Choice: It is much appreciated that only certain sections of these regulations apply to AWC providers however this chapter is geared toward licensed providers and is counter-productive to supporting self - directed services and family based models as noted earlier. If the Department elects to keep the AWC providers in this chapter then other sections should also be excluded. Challenge in documenting the 24 hours when Managing Employers are able to participate in the training of SSWs – are they now qualified in assisting with training? Since Managing Employers work with the individual and are considered volunteers, how does the Department propose 12 hours of training for MEs? Will rates be adjusted to cover the costs to manage and train the Managing Employers, as this will be a large administrative burden?

Are Managing Employers now required to have a full background check? What will assist providers with these additional costs? Child abuse clearances can take 2-6 weeks. For a Managing Employer of a minor, are they not able to begin their duties as a Managing Employer until his/her background checks come in? Should providers then wait to complete orientation until a successful background check has been completed?

At times, the Managing Employer will request a team meeting or revision based on need, such as in relation respite or a vendor service such as mileage or public transportation. Will the provider be required then to complete an assessment when the Managing Employer when a Managing Employer requests a change to these areas?

Section 6100.183 should not apply to AWC since it is for a residential facility

Recommendation for 6100.802

1. Remove AWC from 6100 regulations as noted in previous comments. A separate agreement for AWC administrative providers should be developed.

2. If AWC remains in Chapter 6100 remove 6100.48, 6100.52, 6100.55, 6100.141-144, 6100.405 and 6100.183 at a minimum.

6100.804. OHCDS: The OHCDS should not be responsible for ensure that the vendors are qualified based on the requirements in the regulations with the exception of transportation mile. Since the service coordinators are required to get bids and collect the preliminary information, the county office/managing entity should be the one to ensure that the vendor is qualified as they collect the information in order to authorize the service and they maintain the documentation.

The OHCDS should not provide an attestation that the cost of the good or service is the same or less as the cost charged to the general public. The OHCDS receives the invoice from the managing entity or county office, who authorized the amount, and thus, they should be the one to confirm that the service is the same cost or less than the general public.

Recommendation for 6100.804:

1. Removal of OHCDS from 6100 regulations as noted in previous comments. A separate agreement for OHCDS administrative service providers should be developed.
3. If OHCDS remains in Chapter 6100 remove all training sections and 6100.48, 6100.52, 6100.55, 6100.141-144, 6100.405 and 6100.183 at a minimum.

6100.806 Vendor goods and services: Who will confirm that the respite camps are fulfilling the requirements for training, individual rights, PSP, positive interventions, incident management, and medication? Some respite camps are seasonal, so how could they meet every 3 months?

Most vendors do not access the individual's PSP so how would they be able to complete the appropriate support delivery documentation?

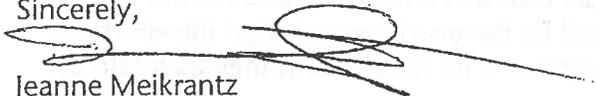
How can a vendor of a home adaptation, specialized supplies, and vehicle adaptation be required to perform 12 hours of training per year? What happens when vendors provide services for multiple providers? How would providers know which vendors were trained and not trained?

Recommendation for 6100.806:

1. Removal of Vendor services from 6100 regulations as noted in previous comments. A separate agreement for vendor providers should be developed.
4. If vendor services remains in Chapter 6100 remove all training sections and 6100.48, 6100.52, 6100.55, 6100.141-144, 6100.405 and 6100.183 at a minimum.

Thank you for the opportunity to comment. We look forward to working with the Department to address the questions and concerns related to Chapter 6100 regulations. If you have any questions regarding our comments please do not hesitate contacting me at 610-696-8090 ext. 203 or jmeikrantz@arcofchestercounty.org

Sincerely,



Jeanne Meikrantz
Executive Director