

3160

14-540-302

Kroh, Karen

From: Mochon, Julie
Sent: Wednesday, December 21, 2016 8:55 AM
To: Kroh, Karen
Subject: FW: Comments on Proposed 6100 Regulations
Attachments: Comments on Proposed 6100 (LJC).pdf; Friendship Community Cover Letter (UC).pdf

From: Luke Charles [mailto:lcharles@friendshipcommunity.net]
Sent: Tuesday, December 20, 2016 5:52 PM
To: Mochon, Julie
Cc: Gwen Schuit; Joseph Birli; Norman Ressler
Subject: Comments on Proposed 6100 Regulations



Dear Julie Mochon,

Please see the attachments for my comments on the proposed 6100 regulations.

Thank you,

Luke Charles

Program Specialist

Friendship Community
1149 East Oregon Road
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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 Regulation No. 14 – 540

Dear Ms. Mochon:

Friendship Community wishes to submit the following comments and suggestions to the proposed rulemaking published by the Department of Human Services (“Department”) on November 5, 2016. As a Provider of supports and services for Individuals with intellectual disabilities and/or autism, the regulations are of vital importance as we strive to assist Individuals to achieve meaningful community integration and to achieve greater independence consistent with their person centered support plans. Our comments and suggestions relate to individual regulations and include recommended adoption of text or deletion of text in order to further clarify our comments and suggestions.

In working with Individuals and their families over the past 44 years, it is our desire to provide thoughtful comments and suggestions, guided by the varied experiences throughout our Organization. We wish to advocate for regulations and policies that will best support Individuals, consistent with the principles contained in the “Everyday Lives” Office of Developmental Programs publication. This industry is dependent on a single payer system, therefore, the scope of regulatory oversight of service provision and the formulation of the criteria for continued licensure will have a definite effect on the economic viability of continued service provision. As a Provider of varied services, we request a rate setting process that reflects sustainability and predictability in order to align costs with payments consistent to support each consumer’s mandated support plan.

The Notice of proposed rulemaking published on November 5, 2016 invites public comment and neither imposes nor references any conditions or limitations or restrictions on the format and wording of public comments. We understand that, in proposing and adopting regulations, the Department itself is subject to requirements relating to style, usage and format

(e.g., the use of "shall" as opposed to "will"). But, and as confirmed by the Independent Regulatory Review Commission, those style and format rules applicable to the Department do not constrain the style and format of public comments, which the Department must respond to if submitted within the comment period to the location identified in *The Pennsylvania Bulletin*.

We appreciate the opportunity to make public comments and suggestions regarding this vital change in regulations (which will replace Chapter 51 rulemaking) for Pennsylvania citizens supported by a trained and dedicated workforce that are in dire need of fair and competitive wages and benefits. We believe well written and supportive, general regulations will lead to a sustainable system for these most vulnerable Pennsylvania citizens, well into the future.

Sincerely,



Luke Charles, Program Specialist
Friendship Community

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Luke J Charles (Program Specialist) Comments on Proposed PA Chapter 6100 Regulations

- **§ 6100.43(a)(3) – Relating to regulatory waiver and individual rights.**
 - o It needs to be clarified that the prohibition here on requesting a complete waiver of individual rights (in sections 6100.181—6100.186) does not prohibit the modification of individual rights, as described in section 6100.223(11). Modification of rights is also allowable in the proposed waiver definitions, if the modifications are supported by a specific assessed need, agreed upon by the service plan team and justified in the service plan.
- **§ 6100.50(b) - The individual shall be provided with the assistive technology necessary to effectively communicate.**
 - o It should be more clear who would assess the needs and potential for the assistive technology. It is also not clear who would pay for the devices, or what would happen if the devices were destroyed or lost.
- **§ 6100.52 Rights team**
 - o There seems to be confusion throughout this section between (1) the provider's team that would be part of meetings regarding many individuals, and (2) the specific group of people that would be gathered for a specific individual's meeting. Both of these groups are called "Rights Team" in this section, which creates confusion.
- **§ 6100.52(b)(2)(iii) Discover and resolve the reason for an individual's behavior.**
 - o It should be stated that this is the intention *whenever possible*. However, there will be times when it is not completely possible to discover or resolve the reasons.
- **6100.52(c) Relating to required members of "Rights Team"**
 - o There needs to be an exception for when it is not appropriate to include an individual in all meetings.
- **§ 6100.52(f) The rights team shall meet at least once every 3 months.**
 - o Scheduling and ensuring that all required participants attend, as described in section 6100.52(c), will be an undue hardship for providers.
- **§ 6100.54 Recordkeeping**
 - o It should be clarified that electronic files are an acceptable form of recordkeeping.
- **§ 6100.141(a) - The provider shall design an annual training plan based on the needs of the individuals as specified in the individuals' PSPs, the provider's quality management plan and other data and analysis indicating training needs.**
 - o The wording above has been confusing for some. I believe the intention could be expressed more clearly by splitting it into several lines:
 - *The provider shall design an annual training plan for staff persons.*
 - *The content of the training plan shall relate to:*
 - *The actual needs of individuals receiving services, as found in individuals' PSPs.*
 - *The provider's quality management plan*
 - *Other data and analysis indicating training needs.*

- **§ 6100.181(a) An individual may not be deprived of rights as provided under §§ 6100.182 and 6100.183**
 - o It needs to be clarified that the prohibition here on depriving an individual of their rights (in sections 6100.182—6100.183) does not prohibit the modification of individual rights, as described in section 6100.223(11). Modification of rights is also allowable in the proposed waiver definitions, if the modifications are supported by a specific assessed need, agreed upon by the service plan team and justified in the service plan.
- **§ 6100.182 Rights of the individual.**
 - o Somewhere in this section, there should be a reference to the appropriate way to document a “modification of rights”, as described in section 6100.223(11). Modification of rights is also allowable in the proposed waiver definitions, if the modifications are supported by a specific assessed need, agreed upon by the service plan team and justified in the service plan.
- **§ 6100.182(e) An individual has the right to make choices and accept risks**
 - o There needs to be further explanation about this, especially relating to when it is appropriate to modify this right, and what the expectations and liability are for providers to maintain an individual’s health, well-being, and property.
- **§ 6100.182(f) An individual has the right to refuse to participate in activities and supports.**
 - o It would be helpful to have more explanation about how these choices should be documented, how often to providers need to offer new activities similar to activities which have been refused in the past.
- **§ 6100.182(m) An individual has the right to assistive devices and support to enable communication at all times.**
 - o It should be more clear who would assess the needs and potential for the assistive technology. It is also not clear who would pay for the devices, or what would happen if the devices were destroyed or lost.
- **§ 6100.183 Additional rights of the individual in a residential facility.**
 - o Somewhere in this section, there should be a reference to the appropriate way to document a “modification of rights”, as described in section 6100.223(11). Modification of rights is also allowable in the proposed waiver definitions, if the modifications are supported by a specific assessed need, agreed upon by the service plan team and justified in the service plan.
- **§ 6100.221(c) The support coordinator or targeted support manager shall be responsible for the development of the PSP, including revisions, in cooperation with the individual and the individual's PSP team.**
 - o It should be made clear what the responsibilities and expectations of other providers are regarding the work specifically delegated to the Supports Coordinator.
- **§ 6100.222. The PSP process**
 - o This section does not adequately assign responsibilities and expectations for the support team. As written, all responsibilities are held by the ‘individual’ and the impersonal ‘PSP process’ (which the individual is charged with directing).
- **§ 6100.225. Support coordination and TSM.**
 - o It should be made clear what the responsibilities and expectations of other providers are regarding the work specifically delegated to the Supports Coordinator.
- **§ 6100.262. Employment.**
 - o It should be clarified more specifically who has the primary responsibility of finding and offering supports and employment opportunities.

- § 6100.263. **Education.**
 - o It should be clarified more specifically who has the primary responsibility of finding and offering supports and educational opportunities.
- § 6100.303. **Reasons for a transfer or a change in a provider.**
 - o It should be clarified more specifically who has the primary responsibility of finding and offering new provider opportunities.
- § 6100.343(3) **Pressure point techniques, defined as the application of pain for the purpose of achieving compliance.**
 - o There should be an exception for bite-release techniques which the staff persons have been trained in.
- § 6100.343(5) **Relating to the prohibition of mechanical restraints.**
 - o There needs to be a process for appropriate exceptions in cases of extreme self-harm and mutilation.

