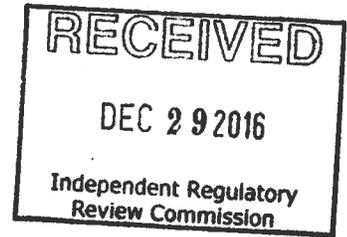


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14-540-285

Kroh, Karen

From: Mochon, Julie
Sent: Wednesday, December 21, 2016 8:53 AM
To: Kroh, Karen
Subject: FW: comments regarding 6100 regulations
Attachments: JEVS comments proposed 6100 regulations 12-16.docx



From: Clara Thompson [<mailto:Clara.Thompson@jevs.org>]
Sent: Tuesday, December 20, 2016 5:26 PM
To: Mochon, Julie
Subject: comments regarding 6100 regulations

Please accept comments from JEVS Human Services regarding 6100 regulations and note that we agree with PAR comment on all sets of regulations:

- Chapter 6100
- Chapter 2380
- Chapter 2390
- Chapter 6400
- Chapter 6500

Thank you,

Clara Thompson
Sr Executive Director
Behavioral Health and Intellectual Disability Services
JEVS Human Services
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JEVS Human Services
Comments on Proposed 6100 Regulations
December 20, 2016

JEVS Human Services has reviewed the comments made by PAR and support comments as submitted. JEVS applaud PAR's redrafting of several regulations for clarity and succinctness without losing the regulation's intent.

Below, JEVS offers some specific comments on key regulations to emphasize or add to comments submitted by PAR.

§ 6100.52. Rights Team

There are already processes to review a violation of individual rights and restraints. Both require an investigation by a certified investigator. There is also a process to review investigations by the administrative entity and the regional office. And the agency trend analysis looks at possible systemic issues requiring changes in the Quality Management Plan. Adding a rights team to also review one of these incidents is an added layer that is labor intensive and requires a substantial commitment of time from additional resources that may not be available. Further, it adds an administrative layer on the provider to manage and assure commitments from external bodies.

This regulation also requires the team to meet every three months and the make-up of the team appears to vary with each individual since the individual and significant people chosen by him/her must be part of the team. That would require numerous teams and there is no end point of review after an incident has occurred. If requiring a rights team, it would make more sense to regulate that the majority of the members do not work for the agency and to also regulate that the individual and his/her significant person(s) are invited to attend the review of that individual's incident. There also needs to be an end point. It can be reviewed every three months until the team feels that the incident has been resolved or based on the recommendation of the team.

Recommendation: JEVS agrees that individual rights and protections are imperative for the health and safety of the individuals being served. JEVS supports the provisions put in place to ensure protections, but feels that these provisions are already in place with no need to duplicate. We recommend that the rights team not be added to regulation.

§ 6100.141. Annual Training Plan

Recommendation: Section D (2) states that each position will have its own training requirements. Training plans per position contradict creating a customized training plan based

the needs of the individuals served. Each person is unique and while many may have similar needs, there will be a variation in skills needed to provide the appropriate support. There needs to be some flexibility and customization in the development of training plans.

§ 6100.142. Orientation Program

There are many providers whose administrative and fiscal staff are located at a parent company location or are contracted so that these staff may never come into contact with individuals, let alone work alone with individuals. Although their understanding of the business operations is necessary, to require specific training as identified in these regulations would not be meaningful for them. JEVS agrees that it is important to train all employees who *regularly* come into contact with individuals and definitely before working alone with individuals.

JEVS appreciates the focus on individual rights, choice, community integration and relationships as the major focal point for training and allowing the organization to determine through the annual training plan what other necessary trainings and tools are needed for staff to complete the job.

§ 6100.143. Annual Training

The four core trainings being mandated -person centered practices, respecting rights, the prevent, detection and reporting of abuse, incident management - to all staff are essential for anyone who comes in contact with individuals receiving services.

Recommendation: A distinction between those staff who come in regular contact with individuals receiving services and those who do not should be made. For example, a CEO or CFO who would not interact with an individual should not be held to these training standards.

§ 6100.221. Development of the PSP

While it is important to have an initial PSP in order to begin services and receive reimbursement for services, it is very difficult to develop the initial PSP based upon a current assessment. An assessment takes time to complete for accuracy, which was the justification that allowed for a period of 45 days following admission to complete an assessment in residential, with a full support plan developed after the initial assessment. Tying an initial plan with a full year plan puts pressure on providers that may not allow the provider to thoroughly evaluate and meet the needs of the individual. JEVS suggests that the initial PSP be based on the SIS or information in the individual's record, giving the provider a longer period of time to work with an individual and assess them fully.

§ 6100.222. PSP process

Stating that the PSP process will be “directed by the individual” is too literal and may be misunderstood by new staff entering the services and supports system and result in misguided dreams and wishes instead of true interests, preferences and needs of the individual in the plan. Clearly, the plan must reflect the interests, preferences and needs of the individual, which should be stated in regulation.

§ 6100.226. Documentation of Support Delivery

As presented at the recent PAR conference by Shelley Zaslow, there is a difference between a service note and a progress note. This section attempts to make that distinction, but it is still unclear. There is considerable detail describing a service note in sections (a) through (d), but only one point (section f) that describes a progress note. It is easy for staff to confuse the two without more distinction. It appears that a progress note is being required every three months instead of monthly, as in the past for residential, and daily for other services. JEVS agrees that this aligns well with being able to track *actual* progress, since progress can be slow and steady for many. A monthly or daily note cannot capture longer term progress.

§ 6100.303. Reasons for a Transfer or a Change in a Provider

There can be multiple reasons to transfer an individual, even if the individual would not choose the transfer on their own, such as a fire, landlord eviction, abuse confirmation by life sharer, etc. We suggest that there should be a provision to allow a transfer for other extenuating, unforeseen circumstances, beyond a provider’s control, that are not reflected in the in the statement “changing needs of the individual.”

§ 6100.304. Written Notice

A PSP team is not able to provide 30 days written notice prior to the transition to a new provider because writing a letter is an individual act, not a team act. The team should agree to the transition, but one member of the team, favorably the supports coordinator, should be designated to send the notice. Notice should reflect the outcome of the team decision, even if the individual has selected a different supports coordinating organization.

§ 6100.402. Incident Investigation

Not every unusual incident requires investigation by a Certified Investigator, per the most recent bulletin and regulations. To investigate every incident would add cost and additional administrative burden to not only providers, but to Administrative Entities and the State who

also must review investigations. For example, a medication error, an emergency room visit, or hospitalization for a known cause should not require an investigation under most circumstances. Providers should be given an option for further investigation of these incidents, but regulation should not require investigation.

Recommendation: Clarification is needed on when and who is expected to investigate specific types of incidents. If it not the intent for CI to investigate *all* incidents, language should be clarified.

§ 6100.462. Medication Administration

Life Sharing is an integrated, more natural life opportunity in a family's setting – very different from the philosophy that guides Community Living Arrangements. It is counterproductive to require ODP's Medication Administration Module within Life Sharing. Expansion of Life Sharing (one of the Department's stated goals) would be undermined by this requirement, creating a community home setting rather than a family environment. We need to be mindful of how we would handle if one of our own family members needed medication or a change in current prescriptions. We would attend the appointment and be trained by the doctor, not seek formal training on how to administer the medication. This additional requirement could decrease in the pool of interested Life Sharing providers and create unmanageable demand on the Commonwealth to provide additional trainings.

Mandated training further blurs the lines between being contracted as a Life Sharing provider and direct employment by a provider agency. There are clear expectations established by Internal Revenue Service and US Department of Labor to which providers must adhere to maintain distinction between contracted provider and employee. When you require the same training for Community Homes and Life Sharing, the difference between a provider and staff are harder to see.

Recommendation: Do not require Life Sharing providers to utilize the Medication Administration Module.

§ 6100.444. Lease or Ownership

We do not agree with the landlord/tenant designation detailed in this regulation. A provider is much more than a landlord. Additionally, using this designation creates the unintended consequence that the provider may be considered a landlord, potentially subject to related township and municipality fees. It is costly, difficult and time consuming to challenge these fees.

Recommendation: Allow providers to provide the intended tenant protections to individuals through current room and board agreements.

§ 6100.487. Loss or Damage to Property

This section should acknowledge that loss of property could also be due to normal wear and tear. The item in question may not be necessary to replace because the individual's interests may have changed after a period of time and normal wear and tear.

§ 6100.647. Allowable Costs

As it seems that the Commonwealth moves towards a payment system based on rates and fees, not on cost reimbursement as incurred by a provider, providers should receive payment for the outcomes delivered, rather than being subject to allowable cost reporting.

Regulating allowable cost to the extent that is identified in this section (6100.647 - 6100.669) seems counter to this new environment and over-prescriptive. Providers should be expected to incur costs that are reasonable and necessary to deliver outcomes *within* the established fee for service schedule.

§ 6100.648. Donations

This regulation of handling donations is over-prescriptive in a fee for service environment.

JEVS also agrees with PAR's comments on other sets of regulations to include:

Chapter 2380

Chapter 2390

Chapter 6400

Chapter 6500

