3160 #14-540 (439)

Kroh, Karen

From:	Steve Suroviec <ssuroviec@paproviders.org>
Sent:	Monday, October 23, 2017 9:47 AM
To:	Thaler, Nancy; Kroh, Karen
Subject:	6100 meeting
Attachments:	6100 unofficial final language - RCPA matrix - with comments.docx

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Nancy and Karen,

Thanks again for last week's meeting. I know you'd prefer not to make changes at this stage – I get it. But as you said if there are big issues identified, now is the time to fix them.

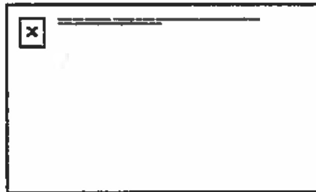
Attached are the notes our internal work group developed. Richard, Carol, Joel, and Jeff (all RCPA members) didn't bring up every one of these issues during the meeting because they sensed there wasn't an appetite to make a lot of changes. That said, it doesn't hurt for me to forward them to you.

Please do whatever you'd like with the notes. Consider them, ignore them, whatever. I just wanted you to have them.

You don't need to reply to this email.

SS

Stephen H. Suroviec
COO & Director, Intellectual/Developmental Disabilities Division



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Unofficial 6100 SECTIONS	Language and/or ODP changes we really like and/or Language and/or ODP changes we really don't like.
DEFINITIONS	
§ 6100.3. Definitions.	I think the words being defined to describe support that is not arranged or planned by the provider should be "unpaid support", not to call it "support" and then define it as unpaid. It just seems confusing to me as they have it written. Providers most definitely support people.
	(service = paid; support = unpaid?) If this is what they tried to do, then they need to be very careful throughout document that they use the right words in the right places. Also, "support" is often used today interchangeably with services – this will be confusing.
QUALITY MANAGEMENT	
§ 6100.45. Quality management.	Much better than previous versions
	Like that revision is every 3 years
	Gutted and replaced – much better!!!
RESERVED CAPACITY	
§ 6100.55. Reserved capacity.	(b) - Is this implying that providers should be discharging an individual after 180 days, or only that the obligation to reserve the residential placement ends at 180 days?
	(c) – thank you for adding "c"
CHILDREN'S SERVICES	
§ 6100.56. Children's services.	A little confused by (b) since the child's legal guardian is the person with the authority to make decisions, normally in lieu of the parents. Children rarely have legal guardians other than the parents unless there is some significant problem. Should it be or, instead of and?
	(b) Should this read "child and parents and/or legal guardian?" And, perhaps define "legal guardian." Is this saying that parents should be able to participate even when there is a guardian that has decision making authority?
STAFF TRAINING	
§ 6100.141. Training records.	(a) - While this section uses the same language that is currently in the 6400 and 6500 regulations, it would be nice to update it somewhat. Why is it necessary to retain certificates and a list of persons attending training? (Especially since online training occurs so frequently where there would be no attendance sheet and the electronic system reflects completion of the course.) Thank you for simplifying!

§ 6100.142. Orientation.	Still not clear on why administrative, fiscal and ancillary staff are required to be trained in areas under (1) if they don't meet the standard for direct service staff.
	Current language is so broad. Who is included? Is it true that if a staff person doesn't "work alone" with individual, then does that mean they do not have to get the training? If they do have to be trained, is it just management connected to IDD division within a provider or all management staff (if the provider provides other than IDD services). And why, if they are not working directly with individuals.
	This is very confusing. "Orientation" vs. "annual training" – who is covered, who isn't? etc.
	(b)(1) why is this not everyday lives, rather than the included list?
	(a) I like the clarification that the orientation has to occur prior to working alone with individuals.
	(a)(2) It would be helpful to have a definition of ancillary staff persons.
§ 6100.143. Annual training.	(b)(1) I have no objection to requiring that employees in the various roles/job titles complete training. However, as far as implementation, perhaps it could be clarified this means employees who have a specific role in IDD services only. At least I assume that was the intent. Also please clarify if "housekeeping" includes janitorial services.
	Who is included? (b)(1) Still not clear on if or why administrative, fiscal and ancillary staff are required to be trained if they don't meet the standard for direct service staff. If the staff person has not contact with individuals, then why require training? (maybe incident recognition and reporting, and rights, but do they need to prescribe the "12 hours"?).
	Same as above; under b (1) having to be trained annually in areas under c (1) if they don't meet the standard for direct service staff.
	(c)(1)again why not everyday lives here
INDIVIDUAL RIGHTS	
§ 6100.181. Exercise of rights.	The clarifications on legal guardianship are good.
§ 6100.182. Rights of the individual.	(c) Is it intended for telecommunications to include use of technology/internet access?
	(e) If understood correctly; any activity that could impinge on one of these rights must be explained in the ISP by the SC. As a provider, in order to protect myself, I would insist on each of them being individually address in order to avoid allegations of rights violations. The way it is currently written, if Jonny decides he wants to climb on the roof of the building and "accepts" the risks; but I stop him to prevent harm, someone could allege violation of rights requiring incident management procedures and investigation(s). The only way to guarantee there will be no problem is to have the ISP state something about Jonny's understanding of risks and when someone may step in and curtail that particular right. *(see*

	6100.184(c)) One could hope that common sense would prevail, but it often hasn't so far. This is going to put a tremendous burden on the SC's and require a redesign of the ISP format (or PSP)
	Under (o): it should state persons designated "in writing" by the individual as releases of information are required under HIPAA most of the time.
§ 6100.183. Additional rights of the individual in a residential service location.	As above, each of these will have to be addressed in the ISP for the individual when there is reason to curtail a particular right, for example, the person who lacks understanding of finances, or a person with an eating disorder and the right to access food at "any time."
	(2) This came up in previous conversations and I still think requiring express permission of the individual for each incidence of access to his bedroom is burdensome and not practical. There could be an agreement upfront with each individual upon admission to the program as to what circumstances would be agreeable for staff to enter the bedroom. CAN WE DOCUMENT IN ADVANCE THE CIRCUMSTANCES THAT PERMISSION IS GIVEN RATHER THAN EACH INSTANCE?
	(5) From a practical viewpoint, I'd suggest rewording this to say that employees providing direct service to the individuals shall have the key or entry device to lock and unlock the door. Supervisors often provide direct support and provide direct coverage.
§ 6100.184. Negotiation of choices.	CAN WE DOCUMENT IN ADVANCE THE CIRCUMSTANCES THAT PERMISSION IS GIVEN RATHER THAN EACH INSTANCE?
§ 6100.185. Informing of rights.	
§ 6100.186. Facilitating personal relationships.	(a) concern with how broadly this can be interpreted. What if a person meets an unsavory character on the internet – the provider has to "facilitate" and "make accommodations"?
	General comment that there still is nothing in here that gives a provider the ability to say "no" when there is excessive cost, liability, etc. involved with an individual's choice.
INDIVIDUAL PLAN	
§ 6100.221. Development of the individual plan.	I like the definition of the provider's "implementation plan" which allows for flexibility in day to day service without constant changes to the ISP
§ 6100.222. Individual plan process.	(6) Occur timely at intervals, etc... does this eliminate the requirement for standard three-month reviews?
§ 6100.223. Content of the individual plan.	(10) A plan to identify a needed service or support as identified by the individual plan team if the absence of staffing would place the individual at a health or safety risk... I have no idea what they are trying to say even when I diagram the

	sentence.... I can only think they are talking about a backup plan for service if staff absences place the person at risk. POORLY WORDED SENTENCE.
	Why be this specific about content of the plan in regulations? This will make it challenging to revise changes to the ISP process and document. It requires specifics about The amount, duration and frequency rather than number of units needed with some flexibility. THIS SHOULD REFER TO A POLICY, WHICH CAN BE CHANGED, NOT BE SO SPECIFIC IN REGULATION.
§ 6100.224. Implementation of the individual plan.	
§ 6100.225. Support coordination, base-funding support coordination and TSM.	It is very positive that specific timeframes for each step in the ISP process WERE REMOVED.
§ 6100.226. Documentation of claims.	No option for monthly note for long-term daily services.
	(1) and (2) – this doesn't work for Supports Coordination. We don't need to do 2 service notes when an interruption of service within a day. Service doesn't necessarily have to be continuous in a day. ONE NOTE SHOULD SUFFICE.
	(2) does "provider" mean the big provider or the person delivering the service?
	(3) In a facility, there are staff changing all the time – as written currently, each staff will need to do a separate note. WE DON'T LIKE THIS.
§ 6100.227. Progress notes.	Progress notes every three months from the date of the initial claim, which is going to be different from the ISP review date. Who does the verification and how often? QUARTERLY REVIEWS REMOVED; CONFUSED ABOUT WHAT THEY WANT.
	(a) Base funded people can be monitored every 6 months. Does this require anybody receiving services with base funding including PLF's need to be monitored every 3 months?
	(a) Is this the quarterly ISP review? Are progress notes every 3 months replacing the requirement for monthly progress notes?
	"PROVIDER" is never really defined anywhere. When referring to SCO, sometimes they're a provider and sometime they're not.
RESTRICTIVE PROCEDURES	
§ 6100.341. Definition of a restrictive procedure.	
§ 6100.342. Written policy.	Will all providers need this policy including supports coordination? (THIS GETS TO THE LACK OF A DEFINITION OF PROVIDER).

§ 6100.343. Appropriate use of a restrictive procedure.	
§ 6100.344. Human rights team.	(b) – this appears to require a residential provider having a credentialed behavioral support professional to serve on the human rights team even if they are contracting out their behavioral supports. i.e., they'd have to have this professional on staff even if they aren't providing the service directly.
	Does the right team replace the restrictive procedures committee?
§ 6100.345. Behavior support component of the individual plan.	Since special behavioral support services can't be authorized if the person is in a residential program, doesn't (d) mean that residential programs will have to have a staff person with a "degree, certification or licensing relating to behavioral support"?
§ 6100.346. Staff training.	
§ 6100.347. Prohibited procedures.	Clarification of chemical restraint is well done, as is the clarification of mechanical restraint
	There are good clarifications in this section.
§ 6100.348. Physical restraint.	Well done
§ 6100.349. Emergency use of a physical restraint.	Well done
§ 6100.350. Access to or the use of an individual's personal property.	
INCIDENT MANAGEMENT	
§ 6100.401. Types of incidents and timelines for reporting.	Reports should not be shared upon request. Do providers need to develop a format for incidents that would have a summary, the findings and the actions taken or will EIM have a way to produce those sharable reports. Information would end of being shared that shouldn't have or providers will spend much time producing another report that can be shared.

	THIS COULD GET VERY UGLY. INDIVIDUALS MAKING REPORTS COULD BE PLACED IN DANGER. THIS REQUIREMENT SHOULD NOT BE IN THERE.
	(e) should witnesses identifying information also be redacted?
	What is the reasoning for no longer requiring an incident report for an ER visit? Tracking ER visits can provide valuable information to providers and is a very common outcome measure of payers.
	(12) Recommend adding "or property" to the requirement to report alleged theft or misuse of individual funds.
§ 6100.402. Incident investigation.	Are this required in investigating an incident vs in finalizing the incident report. For example, does the investigation involve working cooperatively with the plan team or does that occur after the investigation findings are completed.
	(7) Again, recommend adding "or property" to the requirement to investigate. (When the provider bears responsibility for maintenance and safeguarding of property.)
	Positive that they removed requirement that "every incident" had to be investigated.
	Needs to clarify whether "individual to individual" abuse needs to be investigated. It's not clear that it does. This is listed under 401 as to what needs to be reported but it is not listed under 402 that it needs to be investigated.
§ 6100.403. Individual needs.	Is this to be part of the investigation or a separate overarching review by the provider of the findings by the CI plus these other things? THE WORD "INVESTIGATING" IN THE FIRST LINE CAUSES CONFUSION. SHOULD THE WORD BE "REVIEWING"? OTHERWISE, WE'RE BACK TO ASSUMING ALL INCIDENTS MUST BE INVESTIGATED.
§ 6100.404. Final incident report.	
§ 6100.405. Incident analysis.	Is section (a) part of the review required under 403? Or is there an additional analysis for each incident? WHERE DOES THIS FIT IN? IS THIS ANOTHER LAYER OR IS IT PART OF SOMETHING REQUIRED IN 402 OR 403?
PHYSICAL ENVIRONMENT OF HCBS	
§ 6100.444. Size of service location.	
§ 6100.445. Locality of service location.	
MEDICATION ADMINISTRATION	
§ 6100.461. Self-administration.	

§ 6100.462. Medication administration.	
§ 6100.463. Storage and disposal of medications.	(b) good clarification
§ 6100.464. Prescription medications.	
§ 6100.465. Medication records.	
§ 6100.466. Medication errors.	
§ 6100.467. Adverse reaction.	
§ 6100.468. Medication administration training.	
§ 6100.469. Exceptions.	It's not clear why there are exceptions listed. If someone is going to administer medication, then they must be trained. If they're not going to administer, then they don't have to be trained.
	Adult family member exception language is confusing.
	I am concerned that there is an implication a job coach who provides service for more than 30 days in a 12-month period must be able to administer medications. This isn't appropriate for a job coach to do under any circumstances.
	It looks like the only exception for a life sharing home is if it is unlicensed? So life sharers in licensed homes will need to complete the medications administration courses and follow all the requirements?