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From: Schultz, Rose <rschultz@dauphinc.org>
Sent: Friday, August 31, 2018 2:20 PM
To: PW, IBHS
Cc: Eisenhauer, Dan; 'Deb Neifert'
Subject: Feedback on proposed rulemaking IBHS
Attachments: Feedback Proposed Rulemaking Intensive Behavioral Health Services Notes 8.31.18.docx

Hello: Attached please find feedback from Dauphin County MH/ID Program on the proposed IBHS regulations. We appreciate the efforts that went into this work and hope our comments are helpful to the review process. County program staff with extensive experience in children's MH services participated in the process.

Thanks, Rose

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3209

Dauphin County MH/ID Program Review of proposed Intensive behavioral Health Services
Feedback is *Italicized*
August 31, 2018

Payment for IBHS - 1155.31 – 115.37 (Page 2-3)
Stakeholders have expressed concerns about the time it takes to convene an ISPT meeting and the impact this has had on the initiation of services. This proposed rulemaking makes changes to the MA payment requirements to ensure prompt delivery of the services based upon the written order.

Timing, scheduling and holding meetings has not and is not the primary barrier. Lack of staff has been the primary barrier to authorized service start dates. Data suggests that children with ASD have better access to services than children with non-ASD diagnoses. Access needs to be fair to all children regardless of diagnosis.

Chapter 5240. Intensive behavioral health services
General provisions – 52.40.1 – 5240.7 (Page 3-4)
IBHS agencies can include all services in one service description that will be reviewed and approved as part of the licensing process.

There is lots of redundancies between BSC, MT, and TSS service description. We support this provision because one service description in a licensed agency makes sense.

This proposed rulemaking prohibits the use of any restrictive procedures other than manual restraints and prohibits manual restraints that use a prone position or that apply pressure or weight on a child's, youth's or young adult's respiratory system.

A clinical director should be responsible for the oversight and approval of any and all restrictive procedures identified in an ITP or crisis/safety plan. OMHSAS has frequently deferred these issues to the role of BH-MCO which do not employ certified investigators, and OMHSAS investigations which arise from sentinel events/ licensing are not timely. Here is an opportunity to make the use of restrictive procedures a part of licensing including a review of program policies and practices. Agencies may also develop restraint free programs.

Staffing and supervision – 5240.11 – 5240.14, 5240.72, 5240.81, 5240.82 and 5240.102 (Page 3-4)
The staff qualifications for the administrative director are intended to allow an agency to have an administrative director provide oversight for more than IBHS agency.

We believe an administrative director can have oversight over multiple offices/sites not agencies.

Supervision can be provided individually or in group sessions as well as in person or through secure audio or visual technology to provide a variety of options to meet the supervision requirements. To ensure the health and safety of children, youth and young adults receiving

IBHS, a supervisor shall be available to consult with all staff during all hours the IBHS agency provides services.

We have strongly encouraged face to face supervision and have not supported service descriptions that propose supervision solely through video/telephone conferencing. Audio/visual should not be the primary method of supervision. We recommend a limit to video/telephone conferencing supervision.

If the IBHS agency employs nine or less full-time equivalent staff and provides individual services or ABA services, the clinical director may provide supervision. This will allow small agencies to employ one individual as both the clinical director and supervisor when one staff person could fill both roles without compromising the quality of service delivery.

You have not clarified that an administrative director is still required.

This proposed rulemaking also clarifies that staff do not have to repeat completed training when working for more than one IBHS agency or changing employment.

Staff should provide documentation of training completed to their employer and the employer has a responsibility to address training gaps or needs of their employees.

Service planning and delivery – 5240.21 – 5240.23, 5240.85, 5240.86, 5240.92, 5240.105 and 5240.106 (Page 4-5)
This proposed rulemaking requires that IBHS be provided in accordance with each child's, youth's or young adult's ITP in a community-based, clinically appropriate setting as identified in the written order for each service and the ITP.

This language may address when a service is recommended, (perhaps) authorized and the agency does not fully implement the " ordered" /authorized service and write a treatment plan addressing the services as "ordered" .

There are some differences in the assessment process for ABA services to address the need for completion of standardized assessment tools and the compilation of observational data to identify developmental, cognitive, communicative, behavioral and adaptive functioning across home, school and community settings, which are needed to design appropriate interventions for the ITP. This proposed rulemaking includes timeframes for completion of the initial assessment and for the review and update of the assessment to ensure that accurate information is utilized in the development and update of the ITP.

We believe the high standards of services to one group of children should also be applicable to any child recommended for IBHS. We support the same higher standard of completion of assessment tool and compilation of observational data for non-ABA individual services too.

Assessment tools and programming need to be appropriate for target population that is being served. i.e. if an IBHS agency provide services to children under the age of 3, the agency needs

to be using assessment tools and provide programming that is developmentally and age appropriate.

IBHS is described as individualized services, ABA, EBT and group services without regard to family involvement. Very little is stated about the role of families in service planning and delivery. Families involvement and engagement in their child's treatment is critical to progress and success. From the first encounter with an IBHS agency through post-discharge, the role and expectations of family involvement should be outlined. Children do not succeed without family involvement.

Service initiation – 5240.74, 5240.84, 5240.91 and 5240.104 (Page 5)
This proposed rulemaking requires an IBHS agency to provide IBHS in accordance with the written order for the services and requires the IBHS agency to obtain prior to the initiation of services written consent to receive the services identified in the written order from the youth, young adult, or parent or caregiver of a child or youth.

There is no information on where the "written order" originates from or the role, if any of an authorization process.

Discharge – 5240.31 and 5240.32 (Page 5)
This proposed rulemaking also allows an IBHS agency to continue to serve a child, youth or young adult after the child, youth or young adult is discharged for 90 days if the youth, young adult, parent or caregiver of the child or youth requests within 60 days after a child, youth or young adult is discharged that services be reinitiated for 90 days when youth's or young adult's ability to function in the home, school or community and when there is a written order for services.

Perhaps this one long complicated sentence needs restated. Consider aligning this with post-discharge follow-up requirement described above that would have post-discharge telephone contact over 60 days instead of 30 days.

Children do not always get transitioned immediately to another appropriate service at discharge. OMHSAS needs to assure this standard is applicable to all children regardless of diagnosis.

Records – 5240.41 – 5240.43 (Page 5-6)
In addition to other requirements, the individual record must include specific documentation of each IBHS service provided to the child, youth or young adult as well as documentation of any use of a manual restraint procedure.

We support a comprehensive list of all documents in an IBHS record including the ITP and safety/crisis plan.

A review of IBHS agency records and individual records is included in the yearly licensure process for the Department to ensure the health and safety of children, youth and young adults receiving IBHS.

An annual on-site licensure review will improve monitoring and oversight of IBHS agencies including numerous sites. An interpretation of proposed regulations may need to look at the size of IBHS agencies cross Counties, funding authorities, etc.

Individual services 5240.71, 5240.73 and 5240.75 (Page 6-8)
An individual can be a BHT if the individual has or obtains within 18 months of being hired by an IBHS agency as a BHT or within 2 years after the effective date of adoption of this proposed rulemaking, whichever is later, a behavior analysis certification from a Nationally-recognized certification board or the Pennsylvania certification board.

If this aligns with the qualifications for a Registered Behavior Technician (RBT, why isn't OMHSAS using an established certified position instead of creating a parallel role?

Mobile therapists can provide individual and family therapy; assess the strengths and therapeutic needs of a child, youth or young adult and family or caregiver; and develop the ITP and provide assistance with crisis stabilization and addressing problems a child, youth or young adult has encountered.

In the description of the role of a behavior specialist, it does not state they are responsible for developing an ITP. It states that have input on parts of the ITP. Do you envision every child needs two professionals to have an ITP ?

There is no specific mention of transference of skills in description of BSC and MT role. .

BHTs are also responsible for collecting data; providing behavioral stabilizations and interventions to children, youth and young adults that support services provided by behavior specialists or mobile therapists; and for making referrals to other necessary services and supports.

BHT are not mental health case managers and we would strongly recommend that they are not in the role of making referrals for other necessary services and supports. They are child and intervention focused staff within a treatment program.

We also do not support the current configuration of BHRS case managers who manage the paperwork requirements within agencies. Targeted mental health case management is a viable and highly supportive service to families with children in IBHS service who require community supports and resources as well as family supports. TCM is already a specialized service that treatment providers cannot replicate within a treatment agency.

ABA – 5240.81 – 5240.83 and 5240.87 (Page 8-10)
Behavior specialist analysts shall be licensed as a psychologist, professional counselor, marriage and family therapist, clinical social worker, social worker or behavior specialist, and have a graduate or undergraduate-level certification in behavior analysis from the Behavior Analyst Certification Board or other Nationally-recognized certification board, or a current certification as a behavior specialist analyst with a competency in ABA from the Pennsylvania Certification Board, or a minimum of 12 credits of ABA and 1 year of full-time experience in the provision of

ABA, or a minimum of 1 year of full-time experience in the provision of ABA under the supervision of an individual with a graduate-level certification in behavior analysis.

Does this match current BSL standards or is a higher standard being set – We appreciate effort to address quality but are we also assuring there is a workforce to hire.

The Department will be engaging the Pennsylvania Certification Board to develop a State-specific certification in ABA for BHTs based upon the recommendations of stakeholders.

Aren't there existing certification programs such as RBTs? Lesson learned from BSL Certification – all web-based training did not increase skills of staff.

This will provide a path for an ABSA to gain the required hours of experience for licensure while providing ABA under the supervision of a qualified individual.

We recommend that a "qualified individual" be spelled out.

An individual who has a bachelor's degree in psychology, social work, counseling, education or related field and an undergraduate-level certification in behavior analysis or at least 12 credits in ABA and 6 months of experiencing in providing ABA can also be employed as an ABSA.

We agree with rationale of ABSA for individuals with graduate degrees without ABA experience. We think it is not equivalent to an individual with Bachelor's degree with undergrad Behavior Analyst Certification.

Supervision includes direct observation of the provision of ABA to a child, youth or young adult during the implementation of the ITP goals.

We would recommend a minimum frequency.

An ABSA who does not have a graduate or undergraduate certification in behavior analysis shall complete at least 20 hours of training related to ABA that is approved by the Behavior Analyst Certification Board or the Department before independently providing ABA services to a child, youth or young adult and at least 20 hours of training annually that is approved by the Behavior Analyst Certification Board or the Department and related to the ABSA's specific job functions.

We support a requirement that they are enrolled in graduate program and ABA program. Consider a time limit for ABSA without a graduate degree. We recommend you specify the types of training required for individuals with graduate degree and ABSA to gain ABA work experiences?

EBT- 5240.93 (Page 10)
Staff that provide EBT shall meet the qualifications and receive supervision as set forth in EBT.

It is not an Evidenced based therapy unless it is being done with fidelity to the model. There are many agencies and professionals claiming to be doing an EBT and their training may have been

limited or not inclusive of a certification where one exists. Please do not hold EBT intervention to a lesser standards than ABA interventions. OMHSAS' attention to quality is not reflected in this section. Also sometimes, there is interest in replicating an EBT program to a population that was not evaluated. Please consider how the service description is assessed for fidelity to model and research on variations or other populations –sometimes it is no longer an EBT/P.

Group services – 5240.101 and 5240.103 – 5240.108 (Page 10-12)
Group services are intended to replace STAP and this proposed rulemaking incorporates the elements of STAP, although it expands the ability of IBHS agencies to provide group services.

There are supplemental services approved under BHRS that fit this definition and they are not STAP. Please do not limit this to STAP.

We do not support IBHS group services in schools that replace or replicate the successes of school-based outpatient programs that have the capacity to do individual, family and group therapy. Please do not mess with something that is working.

This proposed rulemaking requires that in addition to an administrative and clinical director, an IBHS agency that provides group services shall have a mental health professional.

We strongly recommend that a Mental Health Professional be on site during program operating hours.

Consider if a definition of mental health professional should be included under Definitions.

If staff provides specialized therapies such as music, dance and movement, play or occupational therapies, the staff person shall be Nationally certified in the specific therapy, a mental health professional with at least 12 graduate-level credit hours in the specialized therapy and at least 1 year of supervised experience in the use of the specialized therapy technique or a mental health professional supervised by a Nationally-credentialed activities therapist.

Group services suggest that persons in the group share some common mental, emotional need. Play therapy is not typically a group service. Occupational therapy is not typically a group service. It has been a health and education service primarily. Perhaps an effort to include OT under behavioral health is justification for the needs of one group of children with IBHS needs but not all children with a mental health diagnosis.

This proposed rulemaking includes additional requirements for group services that are provided in a school setting. These include that there be a written agreement with the authorized representative of the school that delineates the roles and responsibilities of the school staff and IBHS agency staff and assures a collaborative relationship between school staff and IBHS agency staff.

We recommend that instead of IBHS in schools, explore EBTs for school settings not expanding IBHS into schools. Again - We do not support IBHS group services in schools that replace or replicate the successes of school-based outpatient programs that have the capacity to do

individual, family and group therapy. Please do not mess with something that is working. Comments about OT also apply here suggesting a shift in funding.

Waivers – 5240.11 (Page 12)
This proposed rulemaking allows an IBHS agency to submit a written request to the Department for a waiver of a specific requirement of Chapter 5240. The Department may grant a waiver unconditionally or subject to conditions that shall be met and may revoke a waiver if conditions required by the waiver are not met. The department will grant a waiver only in exceptional circumstances and if the waiver does not jeopardize the health and safety of the children, youths or young adults served by the IBHS agency; the waiver will not adversely affect the quality of services provided by the IBHS agency; the intent of the requirement to be waived will still be met; children, youth or young adults will benefit from the waiver of the requirement; and the waiver does not violate any Federal or State statute or other regulation.

This should be consistent with DHS bulletins on licensing/program waiver and the process. We strongly recommend time frames on waivers.

DHS OMHSAS should be prohibited from granting waiver to providers wholly on the IBHS regulations. The transition from the current system to IBHS is adequately stated and there should be no exceptions or waiver of IBHS licensing as was done under the pre-existing licensing rule.

Chapter 1155. Intensive Behavioral Health Services General Provisions

General Provisions
1155.2 Definitions (Page 17-18)
Categorized as effective in the Substance Abuse and Mental Health Services Administration's National Registry of Evidence-based Programs and Practices.

This registry doesn't exist anymore. It was taken offline by current federal administration.

Provider Participation
1155.22. Ongoing responsibilities of providers. (Page20-21)

We strongly suggested an addition to responsibilities:
(f) Obtain a letter of support from Counties for each location.

Payment for Intensive Behavioral Health Services
1155.32. Payment conditions for individual services. (page 20-21)
(4) An ITP based upon the assessment and the written order for services has been developed within 30 days after the initiation of services in accordance with 5240.22 (relating to individual treatment plan), or an ITP has been reviewed and updated within the last 6 months or an ITP has been reviewed and updated because one of the following has occurred:

Treatment plan updates are an on-going concern. Updates should be more frequent than 6 months, review every 30 days to track, monitor progress or no progress. Please you are not writing this for only one population of children with mental health or developmental diagnosis. Sometimes no progress suggests another type of service is need and sometimes another goal is needed or the interventions need reworked. A time period for review should be less than 6 months.

(7) For individual services reinitiated after a child, youth or young adult is discharged, payment will be made for up to 90 days if re-initiation of services was requested within 60 days after discharge and there is a written order that complies with paragraph (1) (ii) – (iv).

Individual services will be based on original written order. Re-initiating services after a discharge should also trigger a review and update of treatment plan or ITP.

1155.33. Payment conditions for ABA. (Page 22-23)
(4) An ITP based upon the assessment and the written order for ABA services has been developed within 30 days after the initiation of ABA services in accordance with 5240.86 (relating to individual treatment plan), or an ITP has been reviewed and updated within the last 6 months or an ITP has been reviewed and updated because one of the following has occurred:

We recommend the review and update of an ITP occur more frequently than every 6 months.

(7) For ABA services reinitiated after a child, youth or young adult is discharged, payment will be made for up to 90 days if re-initiation of services was requested within 60 days after discharge and there is a written order that complies with paragraph (1)(ii) – (iv).

A new written order should warrant a review and update of the ITP when services are being re-initiated.

1155.34. Payment conditions for EBT. (Page 24)
(v) The child, youth or young adult is not progressing towards the goals identified in the ITP within 90 days from the initiation of services identified in the ITP.

Some Evidenced based Treatment interventions are only 4 months in duration if done with fidelity. The goals identified in the ITP for an EBT should be reviewed more frequently than 90 days from the start of the EBT or should follow the EBT fidelity measures or practice model.

(ii) No significant progress is made within 90 days from the initiation of the EBT service identified in the ITP.

We are concern that this may not able to be regulated. EBT needs to be implemented with fidelity and being delivered to a recommended target population, the EBT/P may have their own fidelity measures and expected outcomes for review and reassessment. Some concern would be if IBHS proposed EBTs unproven with a specific population or un-evaluated or not replicated with fidelity to model.

(6) For continued EBT services, a child, youth or young adult shall have an order written in the last 6 months that complies with 1155.32(1)(ii) – (iv).

Similar concern about regulating services that are tied to a number of Evidenced based therapies or practice models. Consider whether or not you are only addressing the needs of one population of children instead of all children with mental health disorders.

(9) For EBT services reinitiated after a child, youth or young adult is discharged, payment will be made for up to 90 days if re-initiation of services was requested within 60 days after discharge and there is a written order that complies with 1155.32(1)(ii)-(iv).

Same concern as above.

1155.35. Payment conditions for group services. (Page 25-26)
(4) An ITP based upon the assessment and written order for group services has been developed within 10 days after the initiation of services in accordance with 5240.106 (relating to individual treatment plan), an ITP has been reviewed and updated within the last 6 months or an ITP has been reviewed and updated because one of the following has occurred:

As previously stated ITP updates should be more frequent than 6 months.

(ii) No significant progress is made within 45 days from the initiation of group services identified in the ITP.

Group service progress should be noted within 30 days if the expectation is that the group meets daily or weekly.

(7) For group services reinitiated after a child, youth or young adult is discharged, payment will be made for up to 90 days if re-initiation of services was requested within 60 days after discharge and there is a written order that complies with 1155.32(1)(ii)-(iv).

Please consider a review and update of the ITP.

1155.37. Limitations. (Page 27-28)
(2) Services provided to a child, youth or young adult residing in a 24-hour residential facility will not be paid for unless the IBHS is ordered in accordance with 1155.32(1) or 1155.33(1) (relating to payment conditions for individual services; and payment conditions for ABA) and are provided within 60 days of discharge from the facility to assist in a child's, youth's or young adult's transition to the home or community setting, and the service does not duplicate services included in the facility's rate.

This change from the existing BHRS rule will improve support to the child and their family during this transition period.
XXX 8/31/2018