

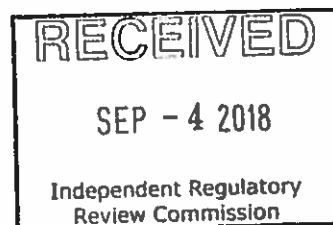
3209

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August 28, 2018

Submitted via email to irrc@irrc.state.pa.us and RA-PWIBHS@pa.gov
Bureau of Policy, Planning and Program Development
Commonwealth Towers, 11th Floor
Harrisburg, PA 17105
Attn.: Tara Pride

Re: Intensive Behavioral Health Services #14-546, Department of Human Services, 55 Pa. Code Chapters 1155 and 5240 (<http://www.irrc.state.pa.us/docs/3209/AGENCY/3209PRO.pdf>)

Dear Ms. Pride:

KidsPeace is grateful for the opportunity to comment on the proposed rulemaking for #14-546, Intensive Behavioral Health Services. KidsPeace operates outpatient and community-based Behavioral Health Rehabilitation Programs in multiple sites in the Commonwealth of Pennsylvania and has vast experience with the services. As such, KidsPeace appreciates the efforts made by the Commonwealth to create a single set of regulations for Intensive Behavioral Health Services to streamline provision of the services across all provider organizations.

After review of the proposed rulemaking, KidsPeace offers the following as comment:

Staffing and supervision (§§5240.11-5240.14, 5240.72, 5240.81-5240.82, 5240.102)

"The proposed rulemaking establishes the minimum staffing requirements for IBHS agencies and includes the minimum qualifications for an IBHS agency's administrative director and clinical director and the responsibilities of IBHS agencies' administrative directors and clinical directors. The staffing qualifications for the administrative director are intended to allow an agency to have an administrative director provide oversight for more than one IBHS agency. The proposed rulemaking also establishes the minimum qualifications for an individual that supervises staff that provide individual services, ABA services and group services. Supervision requirements have been included in the proposed rulemaking to ensure that staff providing IBHS have the knowledge and skill to carry out the specific procedures and interventions that are identified in the ITP. The qualifications of a supervisor and the amount of supervision a staff person receives depends on the staff position and the qualifications of the individual providing services. Professionals with graduate degrees and clinical training are required to receive less supervision than individuals without these qualifications and are not required to receive supervision prior to the delivery of IBHS independently. 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 must be available to consult with all staff during all hours the IBHS agency provides services. 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."

Comment: KidsPeace requests clarification on whether the 9:1 supervision ratio also applies if the supervisor does not also fill the role of clinical director. Is there a ratio or a limit if the supervisor is providing only supervision to staff and not direct services to clients?

Comment: KidsPeace notes that the new positions that are being created in these regulations are not ones that third party insurance will recognize, and therefore, they will not have assigned billing codes. This will cause difficulty obtaining back up authorizations and split authorizations. Therefore, staff in these new positions will only be able to be assigned to medical assistance clients.

ABA (§§5240.81-5240.83, 5240.87)

"...The proposed rulemaking includes qualifications, training, and supervision requirements for individuals who deliver ABA services to ensure that staff providing ABA have adequate knowledge, skills and experience. The proposed rulemaking includes additional requirements for the clinical director of an IBHS agency that provides ABA. All clinical directors of IBHS agencies must be licensed or certified, but the clinical director of an IBHS agency that provides ABA must either have a current certification as a board certified behavior analyst (BCBA) from the Behavior Analyst Certification Board."

Comment: KidsPeace requests clarification regarding the number of assistants one Behavior Specialist Analyst may oversee at one time.

Staffing and supervision (§§5240.11-5240.14, 5240.72, 5240.81-5240.82, 5240.102) and ABA (§§5240.81-5240.83, 5240.87)

Comment: KidsPeace requests clarification on whether site supervisors who do not meet the new licensing/ credentialing requirements will be "grandfathered" in.

Discharge: §§5240.31-5240.32

"An IBHS agency is required to complete at least two telephone contacts within the first 30 days after discharge to monitor the child's, youth's or young adult's maintenance of treatment progress."

Comment: Often, post-discharge follow-up calls are made to monitor a recently discharged client's ongoing progress. However, a significant number of these calls are not returned. In these events, will documentation that follow-up calls have been attempted but not returned suffice as "completion of at least two telephone contacts?"

"The 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 a period of 90 days if the youth, young adult, parent or caregiver of the child or youth requests within 60 days after the child, youth or young adult is discharged that services be reinitiated for 90 days when the condition of the child, youth or young adult has regressed and impacts the child's, youth's or young adult's ability to function in the home, school or community when there is a written order for services."

Comment: KidsPeace requests clarification on the process for a provider to re-engage a client. Specifically, KidsPeace seeks further explanation regarding the paperwork and assessments that would be required, and whether the required paperwork and assessments previously completed would need to be renewed and/or updated.

Fiscal Impact of qualifications for:

Staffing and supervision (§§5240.11-5240.14, 5240.72, 5240.81-5240.82, 5240.102): "The proposed rulemaking establishes the minimum staffing requirements for IBHS agencies and includes the minimum qualifications for an IBHS agency's administrative director and clinical director and the responsibilities of IBHS agencies' administrative directors and clinical directors and

ABA (§§5240.81-5240.83, 5240.87): "...Supervision requirements have been included in the proposed rulemaking to ensure staff providing ABA services have the knowledge and skill to carry out the specific procedures and interventions that are identified in the ITP, Supervision includes direct observation of the provision of ABA to a child, youth or young adult during the implementation of the ITP goals.

Page 26: "It is anticipated that the implementation of the proposed rulemaking may result in an initial increase in costs for IBHS agencies as a result of changes to staff requirements and qualifications, which will vary based upon the services provided by the agency and the current organizational structure of the agency. The exact fiscal impact is unknown because staffing requirements are similar to the current staffing patterns for agencies that provide BHRS with the exception of the addition of the requirement that the clinical director of an IBHS agency that provides ABA services must have a graduate level certification in behavior analysis and BHTs must be certified or obtain certification within 18 months of being hired by an IBHS agency or two years after the effective date of these regulations, whichever is later. It is anticipated that the ability of an IBHS agency to provide an array of IBHS may offset these costs."

Comment 1: As it is anticipated that there will be an increased cost impact resulting from the higher qualifications required of staff at each staffing level, KidsPeace is seeking response on whether reimbursement levels will also increase to accommodate the higher staffing costs.

Comment 2: Providers already struggle to find job candidates with appropriate qualifications in rural areas. The new requirements will result in an even smaller pool of qualified applicants. What considerations have been made regarding this challenge in the development of these regulations?

Individual Services (§§5240.71, 5240.73, 5240.75)

"The proposed rulemaking also includes training requirements for behavior specialists and mobile therapists who are not required to complete continuing education units as part of their professional licensure. These staff will be required to complete at least 16 hours of Department-approved training annually related to their specific job functions. Training requirements for BHTs are similar to what was previously required for TSS workers. BHTs will be required to receive 30 hours of Department-approved training prior to working independently with a child, youth or young adult, Previously TSS workers had been required to receive 24 hours of training prior to working independently with a child, youth or young adult. Stakeholders recommended the 6 hour increase to allow sufficient time to receive training on the array of training topics that have been required in bulletins and included in the proposed rulemaking. In addition, BHTs must 12 complete at least 24 hours of Department-approved training within the first six

months of employment and at least 20 hours of Department-approved training annually that is related to the BHT's specific job functions. BHTs who have a behavior analysis certification may count hours of training and completed coursework required for obtaining and maintaining certification towards the training requirements. In addition, equivalent college coursework may be counted."

Comment: KidsPeace requests clarification on the following:

- **Will the BHT certification training be a free training from the state? How long will it take to complete? By what means will it be offered?**
- **Will any new employee orientation trainings offered by provider organizations be factored into the 30+24 hours of required initial training hours?**
- **What other trainings and training settings can be included to meet the 30+24 required hours for the initial training?**

Group Services (§§5240.101, 5240.103-5240.108)

"Group services are intended to replace summer therapeutic activities programs (STAP) and the proposed rulemaking incorporates the elements of STAP, although it expands the ability of IBHS agencies to provide group services. Group services can be provided for longer lengths of time than STAP and be provided in the school setting and at the 181-IS agency site if approved in the service description."

Comment: KidsPeace understands that services currently considered the "afterschool program" will instead be billed as "group therapy" under the new regulations. KidsPeace requests clarification on whether this will be billed by number of units and whether there will be a restriction on the number of group hours that can be billed in one day.

KidsPeace is grateful for your consideration of these comments.