

**Mental Hygiene Administration**  
**COMAR – Corrections and Additional Clarifications**  
**June 2008**

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**Corrections to COMAR Clarifications (document dated April 16, 2008)**

**COMAR 10.21.17 – Community Mental Health Programs – Definitions and Administrative Requirements**

Q3. *If the client has MA and Medicare (i.e., dually eligible), but the provider is not an approved Medicare provider, can Medicaid be billed first?*

A. No; it is MHA's expectation that providers serving dually eligible (MA/MC) individuals become a Medicare provider.

Q9. *COMAR 10.21.17.04C requires programs to provide individuals, age 16 years old or older, information related to making an advance directive for mental health services; however, Q9 of the April 16, 2008 COMAR Clarifications states that the required age is 18. Please clarify.*

A. While the regulations state "age 16 years old or older," developmentally it may be more appropriate to use the age 18 in many instances. The regulations will be amended in the future to reflect this correction to age 18. In the meantime, programs should use their clinical judgment to assess the clinical and developmental appropriateness of discussing advance directives with an individual in the 16-18 year old age group.

**COMAR 10.21.29 – Community Mental Health Programs – Psychiatric Rehabilitation Programs for Minors**

Refer also to *POLICY CLARIFICATION: PRP FOR MINORS (COMAR 10.21.29) (revised June 2008)* for more complete policy clarifications.

Q5. *Can the minor be referred for PRP services by the PRP's rehabilitation specialist?*

A. No; the referral for PRP services must be made by the licensed mental health professional who is providing inpatient, residential treatment center, or outpatient mental health treatment services to the minor.

Q12. *If a newly hired direct service staff has prior experience working in a PRP for Minors, does that individual still need 60 hours of on-the-job direct PRP supervision before providing services without direct supervision (i.e., on their own/independently)?*

A. Yes. It is preferable that the majority of these 60 hours include face-to-face supervision involving youth receiving PRP services. Supervision may occur in a variety of settings, including individual, group, community and in-home rehabilitation services that reflect the program's routine service delivery. The other portion of the on-the-job supervision may include working with the direct care staff on skills such as crisis response, de-escalation techniques, understanding child development, and documentation related to interventions and outcomes. It would not include hours related to program orientation and policies. All supervision must be documented in the personnel chart in a clear format that shows hours, activities, and where supervision was provided.

## **Additional COMAR Clarifications**

### **COMAR 10.21.17 – Community Mental Health Programs – Definitions and Administrative Requirements**

#### **.12 Quality Management**

*Q1. Are providers required to track and/or report incidents when a consumer is attacked by another consumer?*

A. The regulations do not specify all the types of incidents that a program should track; however, attacks could come under the category of “unfavorable service-related outcomes.” With respect to reporting, the individual who has been attacked has the prerogative to report it to the police and press charges. The program should report all serious incidents to the CSA. Reporting of incidents to OHCQ is not required; however, OHCQ will review the program’s quality management policies/processes during site visits.

#### **.14 Staff Credentials, Competencies, and Privileges**

*Q2. Is it acceptable to the state if the program develops a policy, approved by its Board of Directors/Governing Body/Advisory Committee that prohibits individuals charged with abuse from working at the program under any circumstances until the charges have been dismissed?*

A. Programs are responsible for developing a policy that describes the process to review such situations and to make a determination that is in the best interests of the consumers served. The regulations do not require programs to fire individuals who have legal charges, since being charged is not the same as being convicted.

*Q3. Does 10.21.17.14D require that the Board of Directors/Governing Body/Advisory Committee be involved in each decision, at the individual staff level, regarding the capacity in which a staff member may continue to provide services until legal charges of abuse are resolved?*

A. The intent of this section of the regulations is for the Board of Directors/Governing Body/Advisory Committee to be involved in developing and approving the policies/processes that the program should use when a staff person is charged with a crime that involves abuse. It was not the intent of MHA to require the Board of Directors/Governing Body/Advisory Committee to be involved in each individual staff decision, although the program may choose to do so.

#### **.17 Grievances**

*Q4. This section of the regulations seems to cite COMAR 10.09.70.09 incorrectly. Please clarify.*

A. This is a regulation citation error that is being corrected. The correct regulation citation for individual consumers who want to file a grievance regarding denial of services based on eligibility or medical necessity criteria is COMAR 10.09.70.08.

## **COMAR 10.21.20 – Community Mental Health Programs – Outpatient Mental Health Centers**

### **.06 Evaluative Services Provided**

*Q1. Can a LGPC perform a psychiatric assessment and render a psychiatric diagnosis?*

A. MHA defers to each of the professional Boards regarding scope of practice. According to a letter, dated March 7, 2005, from the Board of Professional Counselors and Therapists: “All levels may perform psychiatric assessment and diagnosis. A Board-approved supervisor must supervise graduate counselors and therapist.” Any questions regarding this should be directed to the Board of Professional Counselors and Therapists at 410-764-4732.

*Q2. If a consumer is referred to the OMHC from a substance abuse program (i.e., the consumer already has a substance abuse diagnosis), is the program still required to perform a co-occurring substance abuse screening assessment?*

A. No; a co-occurring substance abuse screening assessment would be unnecessarily redundant for this type of referral. A more important consideration in this scenario is ensuring that the mental health/substance abuse treatment is coordinated (see requirements in COMAR 10.21.20.08D).

### **.08 Treatment Services**

*Q3. Regarding the on-call/crisis intervention services required during hours when the OMHC is not open, is it sufficient for the program to have an answering machine message directing individuals to call 911 or go to the local emergency room?*

A. No. OMHCs are required to provide on-call and crisis services by telephone during the hours the OMHC is not open (either through the OMHC or by written agreement with another OMHC or mental health crisis service provider). Instructing individuals in crisis (via an answering machine message) to go to the emergency room or to call 911 is not sufficient.

**COMAR 10.21.21 – Community Mental Health Programs – Psychiatric Rehabilitation Programs for Adults**

**.05 Eligibility, Screening, and Initiation of Service**

Q1. *Are PRPs required to conduct substance abuse screening assessments?*

A. No.

**.06 Evaluation and Planning Services**

Q2. *Does the program need to document whether a service was rendered on-site or off-site?*

A. Yes, required contact note documentation includes the location of service.

**.10 Staff Qualifications and Responsibilities**

Q3. *Where can the PRP direct care staff get the required 40 hours of training?*

A. The program itself is responsible for developing and providing the training required by this section of the regulations; however, the training may be provided by an outside source competent to provide the training.

**COMAR 10.21.29 – Community Mental Health Programs – Psychiatric Rehabilitation Programs for Minors**

Answers to questions 1-2 above are also applicable to programs approved under COMAR 10.21.29. COMAR 10.21.29 training/supervision requirements are discussed in Q12 on the first page of this document.