

10.21.10.00

Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 21 MEDICAL CARE PROGRAMS

Chapter 10 Psychiatric Residential Treatment Facility (PRTF) Demonstration Waiver Providers

Authority: Health-General Article, §§10-901, and 15-130.1, Annotated Code of Maryland

10.21.10.01

.01 Scope.

This chapter sets forth the requirements for a provider of psychiatric residential treatment facilities (PRTF) Medicaid demonstration waiver services as set forth in COMAR 10.09.79. These services are:

- A. Caregiver peer-to-peer support;
- B. Crisis and stabilization services;
- C. Expressive and experiential behavioral services;
- D. Family and youth training;
- E. Respite services (in-home and out-of-home); and
- F. Youth peer-to-peer support.

10.21.10.02

.02 Definitions.

In this chapter, terms have the meanings stated in COMAR 10.09.79.

10.21.10.03

.03 Approval.

A. The Department shall grant approval to providers to be eligible to receive State and federal funds for PRTF waiver services if the provider meets the requirements set forth in this chapter.

B. Application. To provide PRTF waiver services, a provider applicant shall:

- (1) Submit an application to the Department;
- (2) Submit the application on the form approved by the Department, with all questions answered and all required documents attached; and
- (3) Attest that the provider applicant is in compliance with the general provider requirements and specific PRTF waiver service requirements set forth in this chapter and in COMAR 10.09.36.

C. Application Modification.

- (1) A provider that proposes to change its PRTF waiver services sites by adding, closing, or moving locations shall submit an application modification, on the form required by the Department, to the Department.
- (2) If the Department approves the application modification, the existing provider approval shall extend to the additional site, as applicable.

D. Approval.

- (1) The Department may grant approval to an applicant provider, for a period not to exceed 12 months, if the Department determines that the provider:
 - (a) On the effective date of this chapter, has an existing contract with an existing care management entity under contract with a local management board in a service area;
 - (b) Has no deficiencies that constitute a threat to the health, safety, or welfare of the individuals served; and
 - (c) Attests that it complies with the requirements set forth in this chapter, and with the specific service requirements set forth in COMAR 10.09.79.
- (2) If the provider is granted approval under §D(1) of this regulation, to continue to be approved, the provider shall, within 12 months, submit documentation of compliance with the requirements set forth in this chapter, and with the specific service requirements set forth in COMAR 10.09.79.
- (3) The Department shall grant approval to a provider if the Department determines that the provider applicant meets the requirements set forth in this chapter and the specific service requirements set forth in COMAR 10.09.79.

E. Recertification. The provider is subject to recertification by the Department every 3 years.

F. Sale or Transfer of Approval.

- (1) The Department's approval of a PRTF waiver service provider is valid only for the provider to which the Department grants approval.
- (2) A provider may not sell, assign, or transfer approval to another provider.

10.21.10.04

.04 Denial, Emergency Suspension of Approval, and Disciplinary Action.

A. Denial of Approval.

(1) If the Department proposes to deny approval to an applicant under the provisions of this chapter, the Department shall give written notice of the proposed denial to the:

- (a) Provider applicant;
- (b) Care management entity; and
- (c) Administrative service organization (ASO).

(2) In the notice under §A(1) of this regulation, the Department shall include:

- (a) The date on which the Department proposes to deny approval;
- (b) The facts that warrant the proposed denial of approval;
- (c) Citation of the regulation or regulations upon which the proposed denial is based;
- (d) Notification that before the denial of approval, the provider may request a hearing under the provisions of COMAR 10.21.16; and
- (e) When feasible, notification of a case resolution conference.

B. Disciplinary Action.

(1) The Department may propose to take any of the following disciplinary actions against a provider:

- (a) Revocation of approval;
- (b) Suspension of approval;
- (c) Probation with conditions; or
- (d) Banning new admissions.

(2) The Department may propose to take one of the actions outlined in §B(1) of this regulation if the provider:

(a) Is out of compliance with the requirements of:

- (i) This chapter; or
- (ii) COMAR 10.09.79;
- (b) Fails to maintain financial viability; or

(c) Obtains or attempts to obtain approval by fraud, misrepresentation, or the submission of false information to the Department.

(3) Except under §C of this regulation, the Department shall send written notice of the proposed action not less than 45 calendar days in advance of the proposed action taken under this regulation to the:

- (a) Provider;

(b) Care management entity; and

(c) ASO.

(4) In the notice under §B(3) of this regulation, the Department shall include:

(a) The date on which the Department proposes to take action and, when feasible, the date of a case resolution conference;

(b) The facts that warrant the proposed action;

(c) Citation of the regulation or regulations upon which the proposed action is based; and

(d) Notification that, before the action, the provider has the right to request a hearing under the provisions of COMAR 10.21.16.

(5) If, after notice and opportunity to be heard, the Department takes disciplinary action, the provider shall, within 10 working days:

(a) Notify individuals or the guardians of individuals receiving services of the action; and

(b) If the program ceases operations:

(i) Notify individuals or the guardians of individuals receiving services of the suspension; and

(ii) Cooperate with the care management entity, child and family team, and the Mental Hygiene Administration in accessing appropriate alternate services for individuals served by the provider.

C. Emergency Suspension of Approval.

(1) Under State Government Article, §10-226, Annotated Code of Maryland, upon findings of conditions that pose an imminent risk to the health, safety, or welfare of an individual served by a provider, the Department may order the immediate suspension of the approval of the provider and the cessation of operation.

(2) If the Department takes the action under §C(1) of this regulation, the Department shall promptly give written notice of the proposed emergency suspension to the:

(a) Provider;

(b) Care management entity; and

(c) ASO.

(3) In the notice under §C(2) of this regulation, the Department shall include:

(a) The proposed effective date of the emergency suspension;

(b) When feasible, the date of a pre-deprivation hearing and a case resolution conference before the Department's final action;

(c) The findings under §C(1) of this regulation and the reasons that support the findings;

(d) Notification that:

(i) Following the emergency suspension, the provider may request a hearing under the provisions of COMAR 10.21.16; and

(ii) The emergency suspension may lead to revocation of the approval if the violation or violations are not corrected within the time period specified by the Department.

(4) If the Department suspends approval, the provider shall immediately:

(a) Notify individuals or the guardians of individuals receiving services of the suspension;

(b) Cooperate with the care management entity, child and family team, and the Mental Hygiene Administration in accessing appropriate alternate services for individuals in the program; and

(c) Cease operations of the program.

10.21.10.05

.05 General Conditions for PRTF Waiver Services Provider Participation.

A. A provider of PRTF waiver services shall:

(1) Provide the documentation required by the Department for initial approval and provider recertification, or as requested by the Department;

(2) Be approved by the Department as meeting the requirements of this chapter and COMAR 10.09.79, and being able to provide the services set forth in COMAR 10.09.79;

(3) Have a provider agreement in effect, to include adherence to quality assurance, auditing, and monitoring policies and procedures;

(4) Receive training and certification as required and approved by MHA and determined to be appropriate for the level and scope of services provided;

(5) Meet all the conditions for participation in COMAR 10.09.36 except as otherwise specified in this chapter;

(6) Maintain general liability insurance, and provide proof of this insurance at the time of initial application to be a provider of PRTF waiver services, at recertification, and upon request by the Department;

(7) Make available to the Department and federal funding agents all records, including but not limited to personnel files for each individual employed, and financial, treatment, and service records for inspection and copying; and

(8) Comply with the following prohibitions against utilization of staff:

(a) Unless waived by the Department in accordance with §D of this regulation, prohibit from working with the participant or the participant's family any staff, volunteers, students, or any individual who is:

(i) Convicted of, received probation before judgment, or entered a plea of nolo contendere to a felony or a crime of moral turpitude or theft; or

(ii) Has an indicated finding of child abuse or neglect; and

(b) Before permitting staff, volunteers, students, or any individual from working with the participant, or the participant's family:

(i) Ensure that, at its own expense, all staff, volunteers, students, and any individual have background checks as set forth in §§B and C of this regulation;

(ii) Review the results of the background checks; and

(iii) Maintain the background checks in the individual's personnel file; and

(c) Maintain written documentation in the individual's personnel file that the director and all direct service provider staff including, but not limited to, volunteers, interns, and students, meet the criteria set forth in this regulation.

B. Required Criminal Background Checks. For each individual providing services to participants and their families in the PRTF waiver, the provider shall:

(1) Before employment, submit an application for a child care criminal history record check to the Criminal Justice Information System Central Repository, Department of Public Safety and Correctional Services (DPSCS), in accordance with Family Law Article, §5-561, Annotated Code of Maryland; and

(2) Request that DPSCS send the report to:

(a) The director of the agency if the request is from a provider agency concerning staff, volunteers, students, or interns who will work with the participant or family; or

(b) To the Department's designee, if the provider is a self-employed, independent practitioner, or the director of the agency.

C. Required Check for Abuse or Neglect. For each individual providing services to participants and their families in the PRTF waiver, the provider shall:

(1) Before employing any individual, submit a notarized Consent for Release of Information/Background Clearance Request form to the Department of Human Resources (DHR) or a local department of social services (DSS) in the jurisdiction in which the individual lives, pursuant to COMAR 07.02.07.19; and

(2) Request that DHR or the local DSS send the report to:

(a) The director of the agency if the request is from a provider agency concerning staff, volunteers, or students who will work with the participant or family; or

(b) To the Department's designee, if the provider is a self-employed, independent practitioner, or the director of the agency.

D. Waiver of Employment Prohibitions. The Department may waive the prohibition against working with the participant or the participant's family if the provider submits a request to the Department together with the following documentation that:

(1) For criminal background checks:

- (a) The conviction, the probation before judgment, or plea of nolo contendere to the felony or the crime involving moral turpitude or theft was entered more than 10 years before the date of the employment application;
 - (b) The criminal history does not indicate behavior that is potentially harmful to participants; and
 - (c) Includes a statement from the individual as to the reasons the prohibition should be waived; and
- (2) For abuse and neglect findings:
- (a) The indicated finding occurred more than 7 years before the date of the clearance request;
 - (b) The summary of the indicated finding does not indicate behavior that is potentially harmful to the participant or the participant's family; and
 - (c) Includes a statement from the individual as to the reasons the prohibition should be waived.

10.21.10.06

.06 Specific Conditions for PRTF Waiver Services Providers—Respite Services.

To be eligible to provide PRTF waiver services as a provider of in-home or out-of-home respite services under COMAR 10.09.79.06B, a provider shall:

A. Meet the requirements of COMAR 10.21.27;

B. Ensure that respite care specialists are:

- (1) 21 years old or older and have a high school diploma; or
- (2) Between 18 and 20 years old and in possession of at least an associate or bachelor's degree from an accredited school in a human services field;

C. Ensure that:

- (1) In-home respite services are provided in the participant's home; and
- (2) Out-of-home respite services are:
 - (a) Provided in a community based alternative living arrangement outside the participant's home; and
 - (b) Where applicable, delivered in accordance with COMAR 14.31.05-14.31.07.

10.21.10.07

.07 Specific Conditions for PRTF Waiver Service Providers—Caregiver Peer-to-Peer Support and Youth Peer-to-Peer Support.

A. A family support organization may provide PRTF waiver services of caregiver peer-to-peer support, youth peer-to-peer support, or family and youth training. To be eligible to provide PRTF waiver services as a family support organization, the organization shall:

- (1) Be a private, nonprofit entity designated under §501(c)(3) of the Internal Revenue Service Code, and submit copies of the certificate of incorporation and Internal Revenue Service designation;
- (2) Have a board of directors comprised of more than 50 percent caregivers with a primary daily responsibility for raising a child or youth up to 26 years old with emotional, behavioral, or mental health challenges;
- (3) Submit a list of board members with identification of those who are caregivers meeting the criteria in §A(2) of this regulation;
- (4) Establish hiring practices that give preference to:
 - (a) Current or previous caregivers of a child or youth with emotional, behavioral, or mental health challenges;
 - (b) Youth who are 18 through 26 years old, who have or had emotional or behavioral health challenges, or both; or
 - (c) Both §A(4)(a) and (b) of this regulation;
- (5) Submit a copy of the organization's personnel policy that sets forth the preferred employment criteria stated in §A(4) of this regulation;
- (6) Employ a staff that is comprised of at least 75 percent individuals who are:
 - (a) Current or previous caregivers of a child or youth with emotional, behavioral, or mental health challenges; or
 - (b) Youth who are 18 through 26 years old with emotional, behavioral, or mental health challenges;
- (7) Submit a list of staff and positions held with identification of those who fit the experienced caregiver and youth criteria stated in §A(6) of this regulation; and
- (8) Submit a certificate of eligibility that includes:
 - (a) Attestation of compliance with §A(1)—(6) of this regulation; and
 - (b) The organization's mission statement that establishes the purpose of the organization as providing support and education to youth with emotional, behavioral, or mental health challenges and their caregivers.

B. Caregiver Peer-to-Peer Support Provider. To provide the services set forth COMAR 10.09.79.06B, the provider shall:

- (1) Be employed by a family support organization;
- (2) Be 21 years old or older;
- (3) Receive supervision from an individual who is 21 years old or older, and has at least 3 years of experience providing peer-to-peer support;
- (4) Have current or prior experience as a caregiver of a child with SED or a young adult with SMI; and
- (5) Receive training and certification as approved by MHA.

C. Youth Peer-to-Peer Support Provider. To provide services set forth in COMAR 10.09.79.06B, a provider shall:

- (1) Be 18 years old or older but not older than 26 years old;
- (2) Be employed by a family support organization;
- (3) Have experience with State or local services and systems as a consumer who has had emotional, behavioral, or mental health challenges;
- (4) Be supervised by an individual who is 21 years old or older, and has at least 3 years of experience providing peer-to-peer support or working with youth, or both; and
- (5) Receive training and certification as approved by MHA.

10.21.10.08

.08 Specific Conditions for PRTF Waiver Service Providers—Family and Youth Training.

A. Family and Youth Training Providers. To provide services set forth COMAR 10.09.79.06B, a provider shall be:

- (1) An approved waiver provider agency, including but not limited to, a family support organization; or
- (2) An approved individual waiver service provider.

B. Qualifications to Provide Family and Youth Training Services.

(1) All family and youth training providers shall:

- (a) Receive training and certification as approved by MHA; and
- (b) Have been a co-trainer with an experienced lead trainer.

(2) Youth training providers shall:

(a) Be 18 years old or older but not older than 26 years old; and

(b) Have experience with State or local services and systems as a consumer who has or had emotional, behavioral or mental health challenges.

(3) Family training providers shall:

(a) Be 21 years old or older; and

(b) Have current or prior experience as a caregiver of a child with SED or a young adult with SMI.

10.21.10.09

.09 Specific Conditions for PRTF Waiver Service Providers—Expressive and Experiential Behavioral Services.

A. Expressive and experiential behavioral services are:

- (1) Art behavioral services;
- (2) Dance/movement behavioral services;
- (3) Equine-assisted behavioral services;
- (4) Horticultural behavioral services;
- (5) Music behavioral services; and
- (6) Psychodrama/drama behavioral services.

B. Qualification to Provide Expressive and Experiential Behavioral Services.

(1) To provide a particular service set forth under COMAR 10.09.79.06B, an individual shall have:

- (a) A bachelor's or master's degree from an accredited college or university; and
- (b) Current registration in the applicable association as outlined in §B(2) of this regulation.

(2) Association Registration.

(a) Art Behavioral Services. To provide art behavioral services, an individual shall be currently registered as a registered art therapist by:

- (i) The Art Therapy Credentials Board in the American Art Therapy Association; or
- (ii) A comparable association with equivalent requirements.

(b) For Dance Behavioral Services. To provide dance behavioral services, an individual shall be currently registered as a dance therapist registered, or an academy of dance therapists registered in:

- (i) The American Dance Therapy Association; or
- (ii) A comparable association with equivalent requirements.

(c) For Equine-Assisted Behavioral Services. To provide equine-assisted behavioral services, an individual shall be currently certified by:

- (i) The Equine Assisted Growth and Learning Association (EAGALA) to provide services under the EAGALA model;
- (ii) The North American Handicapped Riding Association (NAHRA); or
- (iii) A comparable association with certification requirements at least equivalent to EAGALA or NAHRA.

(d) For Horticultural Behavioral Services. To provide horticultural behavioral services, an individual shall be currently registered as a horticultural therapist registered in:

- (i) The American Horticultural Therapy Association; or

(ii) A comparable association with equivalent requirements.

(e) For Music Behavioral Services. To provide music behavioral services, an individual shall be currently registered as a music therapist-board certified by the Board for Music Therapists, Inc:

(i) In the American Association for Music Therapy, Inc.; or

(ii) A comparable association with equivalent requirements.

(f) For Psychodrama/Drama Behavioral Services. To provide psychodrama/drama behavioral services, an individual shall be currently registered as a registered drama therapist or a board certified trainer in:

(i) The National Association for Drama Therapy; or

(ii) A comparable association with equivalent requirements.

10.21.10.10

.10 Specific Conditions for PRTF Waiver Service Providers—Crisis and Stabilization Services.

To provide the services set forth COMAR 10.09.79.06B, a provider shall:

A. Be an agency;

B. Have a current formal written agreement with a local core service agency to serve as a crisis response system;

C. Have capacity to provide or arrange for services 24 hours a day, 7 days per week, including:

(1) Face-to-face clinical care;

(2) Psychiatric consultation; and

(3) Person-to-person phone coverage;

D. Employ clinical supervisors who:

(1) Are licensed in good standing under Health Occupations Article, Annotated Code of Maryland, as a psychiatrist, social worker, registered nurse, or mental health professional;

(2) Are permitted to provide supervision under their respective practice act; and

(3) Have experience providing crisis response services; and

E. Employ behavior care aides who:

(1) Are 21 years old or older;

(2) Have a bachelor's degree in a human services field; and

(3) Receive initial and ongoing training on crisis and stabilization services.

10.21.10.9999

Administrative History

Effective date: April 20, 2009 (36:8 Md. R. 595)