



MENTAL RETARDATION BULLETIN

COMMONWEALTH OF PENNSYLVANIA · DEPARTMENT OF PUBLIC WELFARE

DATE OF ISSUE
December 16, 2005

EFFECTIVE DATE
October 1, 2005

NUMBER
00-05-06

SUBJECT:
Office of Mental Retardation Service Review
Protocol for Individuals in the Consolidated
Waiver

BY:

Kevin T. Casey
Deputy Secretary for Mental Retardation

SCOPE:

County Mental Health/Mental Retardation Administrators
Supports Coordination Entities
Administrative Entities
Community Home Directors
Family Living Directors
Adult Training Facility Directors
Vocational Facility Directors

PURPOSE:

All services that are necessary for eligible waiver recipients should be funded under the terms of the waiver. The Office of Mental Retardation (OMR) establishes this protocol to ensure consistent application of OMR policies and to create a more timely appeal resolution process. This bulletin shall supplement but not replace the current requirements of Mental Retardation (MR) Bulletin 00-00-09, entitled "*Service Preference in Medicaid Waivers for Individuals with Mental Retardation*" and MR Bulletin 00-04-07, entitled "*Clarifying Procedures for Individual and Provider Appeals*". Individuals, families and Administrative Entities should follow the procedural requirements of those bulletins for making decisions regarding waiver services including proper notifications regarding mediation, administrative meetings and the filing of appeals.

BACKGROUND:

OMR is responsible for ensuring that Administrative Entities consistently apply waiver requirements.

QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:

The Appropriate Regional Program Manager

DISCUSSION:

Individuals shall receive notice of due process rights and instructions on how to file an appeal at the time of their registration with the Administrative Entity, upon enrollment in the waiver, at each Individual Service Plan (ISP) meeting and upon notification of denial, reduction, suspension or termination of a service. The Administrative Entity shall provide advance notice of denial of service(s) at the requested level: reduction, suspension, or termination of service. Administrative Entities are required to assist individuals in filing an appeal. Individuals may have a representative assist them in filing the appeal.

In the event that services have been denied, reduced, suspended or terminated and the individual was not provided advance notice and instructions on how to file an appeal, the individual may submit a written request to the Administrative Entity with a copy sent to the appropriate OMR regional office. The Administrative Entity will have an opportunity to review the circumstances and either provide the service requested, provide advance notice of denial, reduction, suspension or termination of services or provide the individual/family with information regarding their right to appeal the decision to the Bureau of Hearings and Appeals (BHA). The Administrative Entity must notify the OMR Regional Office of its actions within 5 days of receipt of the written request.

When an individual/family submits a copy of the "*Fair Hearing Request*" form (MR458) to the Administrative Entity in accordance with MR Bulletin 00-04-07, entitled "*Clarifying Procedures for Individual and Provider Appeals*" the Administrative Entity must date-stamp the appeal upon receipt, forward it to BHA and the appropriate regional office based on the individual's county of registration within three (3) working days of receipt of the appeal.

The OMR Regional Reviewer will review the reasons for appeal, review additional information, and at their discretion may contact the individual, family and the Administrative Entity in order to obtain clarification needed to complete the review. Once an appeal has been filed, either party may provide written information to OMR within 5 days following receipt of the appeal.

OMR will determine whether the actions of the Administrative Entity are consistent with waiver requirements. OMR will ensure that the Administrative Entity determination was based upon correct interpretation of regulations, the current Waiver, the state plan, MR Bulletin 00-03-12, entitled "*Service Definitions and Procedure Codes for Healthcare and Non-Healthcare Waiver and Base Services*", MR Bulletin 00-00-09, entitled "*Service Preference in Medicaid Waivers for Individuals with Mental Retardation*", and all other pertinent MR Bulletins.

The Regional Reviewer will document their service review including: a description of the appeal, the materials reviewed, a list of parties who the reviewer communicated with, the findings and recommendations of the reviewer and the policies and regulations that form the basis for the recommendations. The regional service reviews are subject to concurrence by the OMR Area Directors. OMR's findings will be mailed to the individual or family, the Administrative Entity and BHA within 15 calendar days following receipt of the appeal.

Administrative Entities are required to maintain services pending appeal when the appeal has been filed within 10 days of receipt of the action until the appeal is resolved in accordance with MR Bulletin 00-00-09. Please refer to MR Bulletin 00-00-09 section M (page 11) under 'Discussion' for specific circumstances regarding continuation of services.

OMR is responsible for ensuring that service reviews and decisions from BHA are implemented in a timely manner. When OMR's service review requires that a service be provided, the Administrative Entity shall initiate such services within 30 days of the service review or as specified in the findings. In the case of services that require additional funding, services shall be initiated within 30 days beyond receipt of notification of additional funding. The Administrative Entity shall modify the individual's ISP, authorize the services and document the start date of the services in the Home and Community Services Information System (HCSIS). If the Administrative Entity experiences delays in implementing the service(s), an extension will be requested from the OMR regional office.

If an Administrative Entity fails to implement the findings, the regional office will notify the Administrative Entity in writing that services must be implemented within 15 days or as otherwise specified in the notice or the Administrative Entity must provide documentation of good faith efforts to implement the service, including evidence of the barriers to successful implementation. If there is continued failure to implement the service, the regional office will notify the Administrative Entity Governing Board of the failure to provide waiver services in accordance with the Supplemental Grant Agreement and will require an immediate compliance plan from the Administrative Entity. Further failure to implement the service will result in sanctions.

OMR will track reasons for appeals and will analyze findings to identify patterns or trends that may have policy or training implications. OMR will review procedures and revise them as needed. OMR will also provide all Administrative Entities with a summary of its findings and recommendations.

For information or assistance regarding Service Review Protocol, please contact your supports coordinator or the OMR Regional Office

- Central Region Office of Mental Retardation, Willow Oak Building, Room 430, Harrisburg, Pennsylvania 17105. pmccool@state.pa.us or [717] 772-6507
- Northeast Region Office of Mental Retardation, 100 Lackawanna Avenue, Scranton, Pennsylvania 18503. jwnorowski@state.pa.us or [570] 963-4749
- Southeast Region Office of Mental Retardation, 1400 Spring Garden Street, Room 306, Philadelphia, Pennsylvania 19130. vstillmant@state.pa.us or [215] 560-2245
- Western Region Office of Mental Retardation, 300 Liberty Avenue, Pittsburgh, Pennsylvania 15222. cschalcosk@state.pa.us or [412] 565-5144