ODP Regulations for Home and Community Based Services

Office of Developmental Programs
October 2019

PURPOSE

• Support individuals to live Everyday Lives through health and safety protections and quality service delivery
• Govern and align program, licensing, operational and fiscal aspects of HCBS
• Align with Federal HCBS Settings Rule
• Align with Employment First
• Accountability in the utilization of public resources.
5 CHAPTERS

- **Chapter 6100** replaces Chapter 51 - Program and fiscal rules for services provided in facilities and in the home.
- **Chapters 2380, 2390, 6400 and 6500** - Program requirements for licensed residential and day facilities.
- Chapters 6100 and the four licensing chapters aligned in major program areas:
  - Individual planning
  - Individual rights
  - Staff training
  - Incident management
  - Medication administration
  - Restrictive procedures

SCOPE

- **Programs**
  - Medicaid HCBS waiver programs (ID/A Waivers and AAW)
  - Medicaid State Plan HCBS (Targeted Support Management)
  - Base-funded services funded through grants to counties.
- **Individuals**
  - 57,000 in residential and day facilities and living with families.
- **Service Providers**
  - 1,060 provider agencies
    - 5,400 community homes with a capacity of 18,700
    - 1,600 life sharing homes with a capacity of 2,500
    - 420 adult training facilities with a capacity of 26,400
    - 170 vocational facilities with a capacity of 21,700
Major Changes

• **Strengthens rights.**
  – Extended across all programs and settings - licensed and unlicensed.
  – Requirements for providers to educate, assist and provide the accommodation necessary for the individual to make choices and understand rights.
  – Communication rights including that an individual is provided the assistive technology or service to enable to communicate.
  – Protections for people with guardians.
  – Additional privacy protections for individuals in residential services.
  – Human Rights Team review when someone’s rights must be restricted for health and safety reasons. These protections now apply in all settings.

**Major Changes (cont.)**

• **Prohibition of restraints except for emergency use**
• **Medication administration by trained staff**
  – now includes non-licensed settings
  – modified medication administration course for Life Sharing homes and staff who work in non-licensed settings
• **Children’s rights**
  – how the rights section should be applied to children
  – permanency planning in Individual Plan
• **Orientation and Annual Training Requirements**
• **Incident Management**
  – Reporting changes
  – New requirements for certified investigations
Major Changes (cont.)

- Standards for facility size and location to assure community inclusion
  - Existing grandfathered.
  - Location requirements - not creating segregated communities

- Clarified claims documentation and progress note requirements

- Mandated 3-year data update for the fee-based rates

- Transparency with rate setting

- Changes for determining reserved capacity
  - when individual on extended leave from the home ODP can adjust provider's program capacity

Take a Deep Breath…

- Providers already preparing
  - Claims
  - Quality Management
  - QA&I “Exploratory” or “Non-scored” Questions

- Implementation schedule adjustments
  - Agency With Choice
  - Vendors
  - Organized Healthcare Delivery Systems
  - Incident Management
  - Individual Plan
• During initial roll-out ODP intends to use training and technical assistance in response to regulatory noncompliance resulting from unfamiliarity with how to appropriately implement new requirements.

• Sanctions will be used only in the event of serious or extensive noncompliance.

Effective Dates

October 5, 2019 - Date of Publication
• Reserved Capacity
• Claims & Progress Notes
• Payment
• Enforcement

January 1, 2020
• Community Participation Support/Day Habilitation setting size (delayed)

February 1, 2020– 120 days following publication
• Licensing and Remaining Sections of Chapter 6100
• Agency With Choice (delayed)
• Vendors & Organized Health Care Delivery System (OHCDS) (delayed)
### Effective Dates

**January 1, 2021**
- Incident Management provisions 6100.402(c)(2), (c)(3) and (c)(6)

**TBD**
- Supports Coordination - Incident Management provision 6100.802(e)(2)
- Individual Plan

### Orientation Course on MyODP
- November 1, 2019

### Annual Training Courses on MyODP
- In Development

### Regulatory Compliance Guidance

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<th>Code</th>
<th>Description</th>
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<td>6100</td>
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<td>6500</td>
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<td>Modified Medication Administration Course</td>
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| Rights and Restrictive Procedures Training   | Webcasts in November 2019  
                                             | Face-to-face 3/2020 |

**Resources**

- Request technical assistance or submit a question,  
  RA-PWODP6100REGS@pa.gov

ODP will collect questions and publish updated FAQs

- 6100 Regulations Landing Page on MyODP  
  https://www.myodp.org/mod/page/view.php?id=24070

- Printed booklets available in December 2019