

STATEMENTS OF POLICY

Title 4—ADMINISTRATION

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

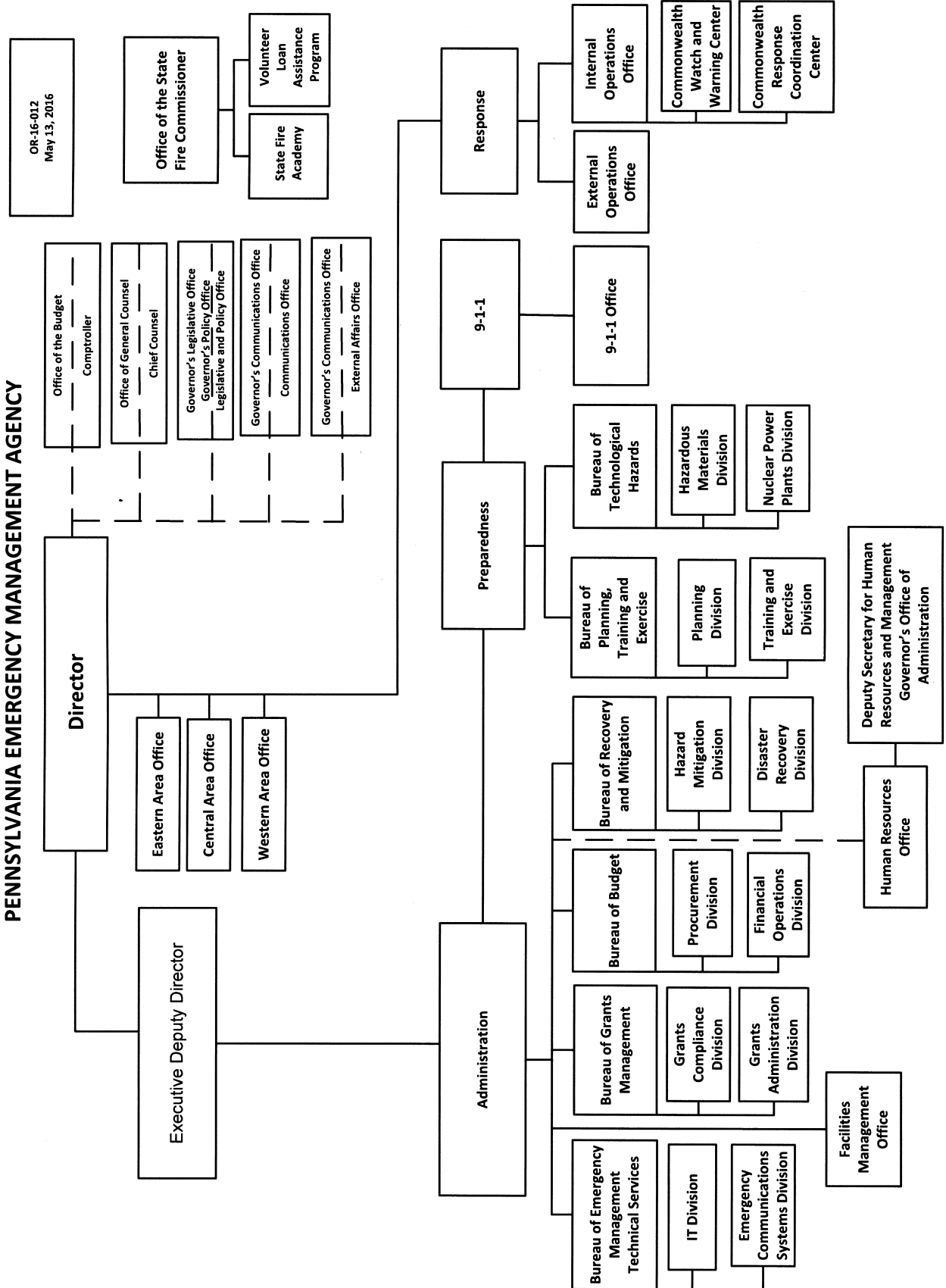
Reorganization of the Pennsylvania Emergency Management Agency

The Executive Board approved a reorganization of the Pennsylvania Emergency Management Agency effective May 13, 2016.

The organization chart at 46 Pa.B. 2682 (May 28, 2016) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of *Code*).

(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) (relating to contents of Pennsylvania Code) as a document general and permanent in nature which shall be codified in the Pennsylvania Code.)

[Pa.B. Doc. No. 16-909. Filed for public inspection May 27, 2016, 9:00 a.m.]



Title 55—PUBLIC WELFARE

DEPARTMENT OF HUMAN SERVICES

[55 PA. CODE CH. 1101]

Clarification of “Within a Provider’s Office”

This statement of policy applies to providers enrolled in the Medical Assistance (MA) Program.

Purpose

The purpose of this statement of policy is to clarify the meaning of “within a provider’s office” in § 1101.51(c)(3) (relating to ongoing responsibilities of providers) and to identify the enrollment process for co-location arrangements that are not precluded by the regulation.

Background

Section 1407(a)(2) of the Human Services Code (code 62 P.S. § 1407(a)(2)) provides that it is unlawful to:

Solicit or receive or to offer or pay any remuneration, including any kickback, bribe or rebate, directly or indirectly, in cash or in kind from or to any person in connection with the furnishing of services or merchandise for which payment may be in whole or in part under the medical assistance program or in connection with referring an individual to a person for the furnishing or arranging for the furnishing of any services or merchandise for which payment may be made in whole or in part under the medical assistance program.

Section 1101.51(c)(3) was promulgated to implement section 1407(a)(2) of the code. Section 1101.51(c)(3) prohibits providers from leasing or renting “space, shelves or equipment within a provider’s office to another provider or allowing the placement of paid or unpaid staff of another provider in a provider’s office.” Section 1101.51(c)(3) further provides that the regulation “does not preclude a provider from owning or investing in a building in which space is leased for adequate and fair consideration.”

Since promulgation of § 1101.51, developments in the health care industry that support a more integrated approach to receiving diagnosis and treatment of illness or injury have resulted in the growth of retail clinics, some of which are placed within the same building structure as a pharmacy, as well as multidisciplinary co-location arrangements between separate providers, including arrangements between physical and behavioral health providers.

According to the Centers for Medicare and Medicaid Services, multidisciplinary co-location arrangements have demonstrated effectiveness to reduce emergency room visits and increase consumer access to certain services.

The Department of Human Services (Department) supports these advancements in the health care industry when services are provided in a manner that ensures the beneficiary retains freedom of choice.

Discussion

Currently, when a provider submits an application to enroll in the MA Program and the provider is attempting to enroll with the same distinct address as another currently-enrolled provider, the Department’s Provider Enrollment system identifies the address match and both providers are asked to submit additional information and documentation regarding the arrangement between the providers.

In an effort to reduce delays in processing certain provider enrollment applications and increase operational efficiency, the Department is clarifying the application of § 1101.51(c)(3) as it relates to a provider’s enrollment and participation in the MA Program.

For purposes of § 1101.51(c)(3), “within a provider’s office” means the physical space where health care providers perform the following on an ambulatory basis: health examinations, diagnosis, treatment of illness or injury; other services related to diagnosis; or treatment of illness or injury. The term does not include a hospital, a skilled nursing facility, an intermediate care facility for individuals with an intellectual disability or an intermediate care facility for individuals with other related conditions.

To facilitate the enrollment of providers that are co-located with other providers, the Department developed an attestation form that will allow providers to attest to their compliance with State and Federal anti-kickback laws and the MA regulation in § 1101.51, and that the providers will advise beneficiaries of their freedom of choice in selecting providers and will display a sign that advises beneficiaries of their freedom of choice.

When a provider submits an enrollment application and is using the same distinct street address as a different currently enrolled provider, the Department will identify the address match and will forward the attestation form to both the applicant and the currently enrolled provider, along with a request for proposed language for signage. This signage advises beneficiaries that they may receive services from any enrolled provider.

In addition, a provider that seeks to enroll at a location that is located within another provider’s offices may request a copy of the attestation form and submit it and proposed language for signage to the Department prior to the Department identifying the co-location arrangement.

The following are examples of co-location arrangements under this statement of policy: a pharmacy operating within a Federally qualified health clinic (FQHC); a certified registered nurse practitioner group with an office at the site of a currently enrolled pharmacy; and a licensed clinical social worker or a psychologist operating within an FQHC.

The attestation form and proposed language for signage shall be submitted by both providers that are at the service location. The Department will review the information and proceed with the processing the application. The Department may, if needed, request additional information or clarification.

Effective Date

This statement of policy is effective upon publication in the *Pennsylvania Bulletin*.

Contact Person

Comments and questions regarding this statement of policy should be directed to the Office of Medical Assistance programs, c/o Deputy Secretary’s Office, Attn: Regulations Coordinator, Room 515 Health and Welfare Building, Harrisburg, PA 17120, (717) 772-6341.

THEODORE DALLAS,
Secretary

(Editor’s Note: Title 55 of the Pennsylvania Code is amended by adding a statement of policy in § 1101.51a to read as set forth in Annex A.)

Fiscal Note: 14-BUL-104. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 55. PUBLIC WELFARE

PART III. MEDICAL ASSISTANCE MANUAL

CHAPTER 1101. GENERAL PROVISIONS

RESPONSIBILITIES

§ 1101.51a. Clarification of the term “within a provider’s office”—statement of policy.

(a) The term “within a provider’s office” means the physical space where a healthcare provider performs the following on an ambulatory basis: health examinations, diagnosis, treatment of illness or injury; other services related to diagnosis; or treatment of illness or injury. The term does not include any of the following:

- (1) A hospital.
 - (2) A skilled nursing facility.
 - (3) An intermediate care facility for individuals with an intellectual disability.
 - (4) An intermediate care facility for individuals with other related conditions.
- (b) Section 1101.51(c)(3) (relating to ongoing responsibilities of providers) does not preclude the enrollment of a provider who is located within another provider’s office, if both the co-located providers:
- (1) Complete an attestation form, as specified by the Department.
 - (2) Submit the attestation form along with signage that has been approved by the Department.

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