RULES AND REGULATIONS

Title 55—HUMAN SERVICES

DEPARTMENT OF HUMAN SERVICES

[55 PA. CODE]

Redesignation of Title

The act of September 24, 2014 (P.L. 2458, No. 132) (Act 132) designated the Department of Public Welfare as the Department of Human Services. Act 132 became effective November 24, 2014. Further, the act of December 28, 2015 (P.L. 500, No. 92) (Act 92) amended the title of act of June 13, 1967 (P.L. 31, No. 21) from the Public Welfare Code to the Human Services Code.

Notice was given at 44 Pa.B. 7442 (November 29, 2014) that under Act 132 references to the Department of Public Welfare were updated, as appropriate, to the Department of Human Services throughout 55 Pa. Code in the *Pennsylvania Code Reporter* (Master Transmittal Sheet No. 483).

Accordingly, under Act 92, the designation of Title 55 of the *Pennsylvania Code* is being updated to Human Services effective upon publication of this notice.

THEODORE DALLAS,
Secretary

[Pa.B. Doc. No. 16-1053. Filed for public inspection June 17, 2016, 9:00 a.m.]

DEPARTMENT OF HUMAN SERVICES

[55 PA. CODE CHS. 13, 14, 20, 2380, 2390, 2600, 2800, 3800, 4200, 4210, 4215, 4220, 4230, 4300, 4305, 4310, 6201, 6210, 6211, 6250, 6350, 6400, 6500 AND 6600]

Intellectual Disability Terminology Update

The Department of Human Services (Department) adopts this final-omitted rulemaking under the authority of sections 201(2), 211, 213, 443.1(2) and (3) and Articles IX and X of the Human Services Code (62 P.S. §§ 201(2), 211, 213, 443.1(2) and (3), 901—922 and 1001—1088) and sections 201(2) and (8) and 202 of the Mental Health and Intellectual Disability Act of 1966 (50 P.S. §§ 4201(2) and (8) and 4202).

Omission of Proposed Rulemaking

Notice of proposed rulemaking is omitted under section 204(3) of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. § 1204(3)), known as the Commonwealth Documents Law (CDL), and 1 Pa. Code § 7.4(3) (relating to omission of notice of proposed rulemaking) because the Department for good cause finds that proposed rulemaking is unnecessary and that a delay in the promulgation of these amendments is contrary to the public interest. Under Federal and State law, the terminology "intellectual disability" has replaced the archaic and offensive terminology "mental retardation." See the act of November 22, 2011 (P.L. 429, No. 105) and Rosa's Law (Pub.L. No. 111-256). Further, the affected individuals with an intellectual disability, friends and family members of affected individuals, providers of services and supports for individuals with an intellectual disability, and county mental health/intellectual disability programs support the use of the up-to-date and appropriate terms "intellectual disability" and "integration" to replace the archaic terms "the retarded," "mentally retarded," "retarded person," "mental retardation" and "normalization" in 55 Pa. Code (relating to human services).

Purpose

The purpose of this final-omitted rulemaking is to support Pennsylvanians with an intellectual disability by updating the language in 24 chapters of 55 Pa. Code to replace the terms "the retarded," "mentally retarded," "retarded person" and "mental retardation" with the up-to-date and appropriate term "intellectual disability." This final-omitted rulemaking also replaces the term "normalization" with the up-to-date and appropriate term "integration" in Chapter 6400 (relating to community homes for individuals with an intellectual disability).

Requirements

Various chapters of licensing, State center, mental health/intellectual disability and intellectual disability regulations used the inappropriate and outdated terminology. These chapters apply to State-operated intellectual disability centers, intellectual disability programs funded through the Office of Developmental Programs and facilities licensed by the Department. Amendments to Chapters 51, 4226 and 6200 (relating to Office of Developmental Programs home and community-based services; early intervention services; and room and board charges) are not included in this final-omitted rulemaking, because rulemakings pertaining to these chapters are concurrently moving through the regulatory process.

The correct terminology of "intellectual disability" is updated in Chapters 13, 14, 20, 2380, 2390, 2600, 2800, 3800, 4200, 4210, 4215, 4220, 4230, 4300, 4305, 4310, 6201, 6210, 6211, 6250, 6350, 6400, 6500 and 6600.

Affected Individuals and Organizations

This final-omitted rulemaking affects individuals with an intellectual disability, and families of these individuals, who receive funded services and supports through the Office of Developmental Programs; State-operated intellectual disability centers; providers of State and Federally-funded intellectual disability services and supports and facilities licensed by the Department.

This final-omitted rulemaking was requested by and is very important to the intellectual disability self-advocacy and advocacy communities, families, providers, local government and others, as the terms "the retarded," "mentally retarded," "retarded person," "mental retardation" and "normalization" are offensive and archaic. In July 2015, a draft of this final-omitted rulemaking was shared with and reviewed by external stakeholders that included self-advocacy, advocacy, provider and local government organizations. External stakeholders applaud this long overdue effort to update the language in 55 Pa. Code.

Accomplishments and Benefits

This final-omitted rulemaking promotes respect, community integration and an array of opportunities for an individual with an intellectual disability by using words that are positive and up-to-date.

Fiscal Impact

There is no fiscal impact to the Commonwealth, individuals, families, advocates, providers or local government.

Paperwork Requirements

There is no increase or decrease in paperwork requirements.

Public Comment

Although this rulemaking is being adopted without publication as a proposed rulemaking, interested persons are invited to submit written comments, suggestions or objections to Julie Mochon, Human Service Program Specialist Supervisor, Office of Developmental Programs, Department of Human Services, Room 502 Health and Welfare Building, 625 Forster Street, Harrisburg, PA 17120, jmochon@pa.gov. Comments will be reviewed and considered for any subsequent revision of these regulations.

Persons with a disability who require an auxiliary aid or service may submit comments by using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

Regulatory Review Act

Under section 5.1(c) of the Regulatory Review Act (71 P.S. § 745.5a(c)), on April 14, 2016, the Department submitted a copy of the final-omitted rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Human Services and the Senate Committee on Public Health and Welfare. On the same date, the regulations were submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P.S. §§ 732-101—732-506).

Under section 5.1(j.2) of the Regulatory Review Act, on May 18, 2016, the final-omitted rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on May 19, 2016, and approved the final-omitted rulemaking.

Findings

The Department finds that:

(1) Notice of proposed rulemaking is omitted under section 204(3) of the CDL and 1 Pa. Code § 7.4(3) because the Department for good cause finds that proposed rulemaking is unnecessary and that a delay in the promulgation of these amendments is contrary to the public interest. The affected individuals with an intellectual disability, friends and family members of affected individuals, providers of services and supports for individuals with an intellectual disability, and county mental health/intellectual disability programs support the use of the up-to-date and appropriate term "intellectual disability."

(2) The adoption of this final-omitted rulemaking in the manner provider by this order is necessary and appropriate for the administration and enforcement of the Human Services Code (62 P.S. §§ 101—1503).

Order

The Department, acting under the authorizing statutes, orders that:

(a) The regulations of the Department, 55 Pa. Code Chapters 13, 14, 20, 2380, 2390, 2600, 2800, 3800, 4200, 4210, 4215, 4220, 4230, 4300, 4305, 4310, 6201, 6210, 6211, 6250, 6350, 6400, 6500 and 6600, are amended by amending §§ 13.1, 13.8, 14.1, 20.42, 2380.2, 2380.3, 2380.17, 2380.18, 2380.182, 2390.5, 2390.18, 2390.19, 2390.152, 2600.4, 2600.64, 2600.65, 2600.222, 2600.224, 2600.228, 2800.4, 2800.64, 2800.65, 2800.222, 2800.228, 3800.3, 3800.5, 3800.20, 3800.56, 4200.1, 4200.2, 4200.3, 4200.4, 4200.11, 4200.24, 4200.32, 4200.33, 4210.1, 4210.2, 4210.4, 4210.5, 4210.6, 4210.11, 4210.12, 4210.26, 4210.32, 4210.42, 4210.51, 4210.52, 4210.62, 4210.71, 4210.91, 4210.92, 4210.93, 4210.101, 4210.113, 4210.123, 4210.141, 4210.142, 4210.143, 4210.144, 4210.151, 4210.153, 4210.182, 4210.191, 4215.1, 4215.2, 4215.3, 4215.4, 4215.21, 4215.22, 4215.23, 4215.24, 4215.25, 4215.26, 4220.1, 4220.2, 4220.3, 4220.11, 4220.12, 4220.13, 4220.14, 4230.1, 4230.2, 4230.3, 4230.11, 4230.12, 4230.14, 4230.15, 4230.16, 4230.17, 4300.1, 4300.2, 4300.3, 4300.4, 4300.21, 4300.22, 4300.23, 4300.25, 4300.26, 4300.45, 4300.46, 4300.48, 4300.56, 4300.63, 4300.68, 4300.83, 4300.86, 4300.94, 4300.95, 4300.106, 4300.117, 4300.118, 4300.132, 4300.134, 4300.135, 4300.136, 4300.137, 4300.139, 4300.148, 4300.155, 4300.158, 4300.159, 4300.161, 4305.1, 4305.2, 4305.3, 4305.4, 4305.5, 4305.11, 4305.13, 4305.15, 4305.17, 4305.21, 4305.31, 4305.33, 4305.42, 4305.43, 4305.51, 4305.52, 4305.61, 4305.66, 4310.1, 4310.3, 4310.4, 4310.6, 4310.9, 4310.17, 4310.20, 6201.1, 6201.2, 6201.3, 6201.4, 6201.11, 6201.12, 6201.13, 6201.14, 6210.1, 6210.2, 6210.3, 6210.11, 6210.13, 6210.21, 6210.22, 6210.32, 6210.33, 6210.34, 6210.35, 6210.42, 6210.43, 6210.44, 6210.46, 6210.61, 6210.62, 6210.63, 6210.64, 6210.65, 6210.71, 6210.72, 6210.75, 6210.76, 6210.78, 6210.79, 6210.81, 6210.93, 6210.101, 6210.108, 6211.1, 6211.2, 6211.45, 6211.78, 6211.79, 6211.87, 6250.1, 6250.2, 6250.3, 6250.11, 6250.21, 6250.22, 6350.1, 6350.3, 6350.4, 6350.5, 6350.11, 6350.13, 6350.14, 6350.15, 6350.16, 6350.21, 6350.22, 6350.23, 6350.24, 6350.25, 6350.26, 6350.27, 6400.1, 6400.2, 6400.3, 6400.4, 6400.15, 6400.18, 6400.19, 6400.44, 6400.46, 6400.143, 6500.1, 6500.2, 6500.3, 6500.4, 6500.12, 6500.20, 6500.21, 6500.43, 6500.45, 6500.46, 6500.123, 6600.1, 6600.2 and 6600.3 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Secretary of the Department shall submit this order and Annex A to the Offices of General Counsel and Attorney General for approval as to legality and form as required by law.

(c) The Secretary of the Department shall certify and deposit this order and Annex A with the Legislative Reference Bureau as required by law.

(d) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

THEODORE DALLAS,
Secretary

(*Editor's Note*: See 46 Pa.B. 2919 (June 4, 2016) for IRRC's approval order.)

Fiscal Note: Fiscal Note 14-539 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 55. HUMAN SERVICES

PART I. DEPARTMENT OF HUMAN SERVICES

Subpart B. RIGHTS

CHAPTER 13. USE OF RESTRAINTS IN TREATING PATIENTS/RESIDENTS

§ 13.1. Scope.

This chapter is applicable in institutions operated by the Department, regardless of the type of facility, patient/resident composition or services covered. Facilities covered include Youth Development Centers, Youth Forestry Camps, Restoration Centers, State general hospitals and

State-operated institutions for individuals with a mental illness or an intellectual disability.

§ 13.8. Seclusion.

(a) *Definition.*

(1) *Seclusion.*

(i) The placement of a patient/resident in a locked room may be used as a therapeutic technique only.

(ii) The patient's/resident's request to spend time in a private unlocked room is not to be considered seclusion and shall be granted if feasible and not therapeutically contra indicated. Quarantine or other preventive health measures are not considered seclusion.

(iii) In mental health facilities children under 14 years of age requiring seclusion shall be continuously monitored within or just outside the seclusion area by mental health personnel, and the room shall not be locked or otherwise secured. Soft inanimate objects shall be made available to the patient to permit the venting of aggression.

(iv) Seclusion shall be used only under the following conditions:

(A) When necessary to protect the patient/resident or others from physical injury.

(B) To decrease the level of stimulation when a patient/resident is in a state of hyperactivity.

(C) When less restrictive measures and techniques have proven ineffective.

(D) Seclusion as defined in this paragraph may not be employed in a State center for individuals with an intellectual disability.

(2) *Exclusion.* Within mental health/intellectual disability facilities the removing of the patient/resident from his immediate environment and restricting him to another area. Exclusion shall only be employed when it is clearly documented that another less restrictive method has been unsuccessful in controlling the unacceptable behavior. Exclusion shall be limited and documented as a therapeutic technique in the resident's individual treatment plan. In mental health facilities children under 14 years of age requiring seclusion or exclusion shall be continuously monitored within or just outside the exclusion area by mental health personnel, and the room may not be locked or otherwise secured. Soft inanimate objects shall be made available to the patient to permit the venting of aggression.

(b) *Procedures.*

(1) In mental health facilities if a patient/resident in voluntary treatment requires seclusion, will not consent to such and requests to be discharged, this request shall be granted unless the procedures and standards of section 302 of the Mental Health Procedures Act (50 P.S. § 7302) regarding emergency involuntary treatment and § 5100.76 (relating to notice of withdrawal) are followed. Similarly, the procedures of section 405 of the Mental Health and Intellectual Disability Act of 1966 (50 P.S. § 4405) shall be followed for persons with an intellectual disability who have been voluntarily admitted, require seclusion, and request to be discharged.

(2) In the case of mental health facilities, authority for seclusion of a patient/resident rests with the Director or his designee. In intellectual disability facilities, authority for exclusion rests with the qualified intellectual disability professional. In the case of Youth Development Centers, Youth Forestry Camps and all other Departmental institutions authority for seclusion rests with the Superintendent/Assistant Superintendent. Normally, written orders shall precede the placement of a patient/resident in seclusion or exclusion. In emergencies, telephone orders may be accepted, but an order shall be properly countersigned within the time specified by the institution. In no case, however, shall this period exceed 24 hours.

(3) An order for seclusion or exclusion is good for only 24 hours. The time the order is received shall be recorded with the order on the order sheet.

(4) In mental health/intellectual disability facilities, telephone orders are not acceptable for continued seclusion or exclusion. The patient/resident shall be seen by a physician within 24 hours, and the order shall be rewritten and supported by a progress note. In Youth Development Centers and Youth Forestry Camps, the resident/patient must be seen by the Superintendent/Assistant Superintendent who will assess the resident's/patient's needs and seek professional consultation if indicated.

(5) In the absence of a written or telephone order, a patient/resident may be placed in seclusion or exclusion as a protective measure for no more than 1 hour when the action is immediately necessary.

(6) If a patient/resident is placed in seclusion or exclusion as an emergency procedure, the unit program supervisor or appropriate designated program specialist of the area shall be notified immediately.

(7) In mental health/intellectual disability facilities, if the nursing supervisor/designated program specialist, after visiting the patient/resident, deems seclusion or exclusion necessary, the attending physician or his delegate shall be notified immediately. In Youth Development Center or Youth Forestry Camp facilities, if the designated program specialist, after visiting the patient/resident, deems seclusion necessary, the Superintendent/Assistant Superintendent shall be notified immediately.

(8) In facilities, the nursing supervisor or designated program specialist shall document his observations fully on an appropriate progress report.

(9) The following procedure is to be followed when a patient/resident is in seclusion:

(i) Potentially dangerous articles will be removed from the patient/resident. This includes articles of clothing if there are reasonable grounds to believe such clothing constitutes a substantial threat to the health or safety of the patient/resident or others.

(ii) The patient/resident will be checked at no less than 15-minute intervals by personnel.

(iii) The physical needs of the patient/resident will be given prompt response.

(iv) Concise and informative written reports concerning the status of the patient/resident will be prepared and retained in the record of the patient/resident in seclusion or exclusion. Daily written reports concerning patient/residents in seclusion or exclusion shall be prepared and sent to appropriate designated staff of the facility. These reports shall include information as follows:

(A) Identifying data concerning name, age, location in building and record number of patient/resident.

(B) Reason for seclusion or exclusion.

(C) Period of time in seclusion or exclusion.

(D) Brief statement regarding status of patient/resident.

(E) Record of time given for attention to personal needs.

CHAPTER 14. ABUSE OF PATIENTS/RESIDENTS

§ 14.1. Scope.

(a) *Applicability.* This chapter is applicable in institutions operated by the Department, regardless of the type of facility, patient/resident composition or services provided. Facilities covered include Youth Development Centers, Youth Forestry Camps, Restoration Centers, State general hospitals and State-operated institutions for individuals with a mental illness or an intellectual disability. In those institutions serving children covered by 23 Pa.C.S. §§ 6301—6386 (relating to Child Protective Services Law) the facility shall also comply with the Departmental reporting procedures applicable to this act and the procedures of § 7084, Administrative Manual, relating to management of incidents and deaths. Nothing in this chapter may be construed to limit or affect an employee's existing appeal rights under Civil Service statutes or collective bargaining agreements.

(b) *Definitions.* For purposes of this chapter, Department refers to the Department of Human Services of the Commonwealth.

Subpart C. LICENSING/APPROVAL

CHAPTER 20. LICENSURE OR APPROVAL OF FACILITIES AND AGENCIES

FEES

§ 20.42. Amount of fees.

(a) The following fees shall be paid for a regular certificate of compliance:

Type of Facility	*Profit*	*Public or Nonprofit*
Adult Day Care Center	$15	0
Maternity Home	$15	0
Community Residential Intellectual Disability Facility or Agency	$50	0
Psychiatric Clinic	$50	0
Partial Hospitalization Programs	$50	0
Private Psychiatric Hospital	$50	0
Vocational Facility Serving Primarily Individuals with Mental Illness or an Intellectual Disability, or Both	$50	0

(b) No fee is required for a facility or agency not listed in subsection (a).

(c) The fee for a provisional certificate of compliance is 1/12 of the fee for the annual certificate of compliance multiplied by the number of months for which the certificate of compliance is issued.

(d) The application fee for personal care homes applies regardless of profit or nonprofit status and is based on the number of beds licensed, as follows:

Number of Beds	*Fee*
0—20	$15
21—50	$20
51—100	$30
101 beds and over	$50

PART IV. ADULT SERVICES MANUAL

Subpart D. NONRESIDENTIAL AGENCIES/FACILITIES/SERVICES

CHAPTER 2380. ADULT TRAINING FACILITIES

GENERAL PROVISIONS

§ 2380.2. Applicability.

(a) This chapter applies to adult training facilities, except as provided in subsection (f).

(b) This chapter contains the minimum requirements that shall be met to obtain a certificate of compliance. Each adult training facility will be inspected by the Department each year and shall obtain a certificate of compliance to operate or continue to operate.

(c) This chapter applies to profit, nonprofit, publicly-funded and privately-funded facilities.

(d) This chapter applies to adult training facilities operated on the grounds of or in a community residential rehabilitation mental health facility or a community home for individuals with an intellectual disability if permitted in accordance with Chapter 6400 (relating to community homes for individuals with an intellectual disability).

(e) This chapter applies to adult training facilities operated on the grounds of or in a non-State operated intermediate care facility for individuals with an intellectual disability, unless it is medically necessary or in the individual's best interest to remain at home.

(f) This chapter does not apply to the following:

(1) Older adult daily living centers as defined in the Older Adult Daily Living Centers Licensing Act (62 P.S. §§ 1511.1—1511.22), serving four or more adults who are 60 years of age or older or adults who are 59 years of age or younger but have a dementia-related disease, such as Alzheimer's disease, as a primary diagnosis, but serving no more than three adults with disabilities who are 59 years of age or younger and who do not have a dementia-related disease as a primary diagnosis.

(2) Vocational facilities as defined in Chapter 2390 (relating to vocational facilities).

(3) Partial hospitalization facilities as defined in Chapter 5210 (relating to partial hospitalization).

(4) Summer recreation programs, camping programs and socialization clubs.

(5) Adult day care facilities located in nursing homes that serve only individuals who live in the nursing home.

(6) Adult training facilities operated by the Department or the Department of Education.

(7) Community homes for individuals with an intellectual disability licensed in accordance with Chapter 6400 and intermediate care facilities for individuals with an intellectual disability licensed in accordance with Chapter 6600 (relating to intermediate care facilities for individuals with an intellectual disability) that provide day services in the same building in which the individuals live to individuals who remain at home because they are medically unable to attend a community day program or because it is in the individual's best interest to remain at the home.

(8) Activities occurring at a location other than the facility and the facility grounds, during the time an individual is away from the facility.

§ 2380.3. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Individual—An adult with disabilities who receives care in an adult training facility and who has developmental needs that require assistance to meet personal needs and to perform basic daily activities. Examples of adults with disabilities include adults who exhibit one or more of the following:

(i) A physical disability such as blindness, visual impairment, deafness, hearing impairment, speech or language impairment, or a physical handicap.

(ii) A mental illness.

(iii) A neurological disability such as cerebral palsy, autism or epilepsy.

(iv) An intellectual disability.

(v) A traumatic brain injury.

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GENERAL REQUIREMENTS

§ 2380.17. Reporting of unusual incidents.

(a) An unusual incident is:

(1) Abuse or suspected abuse of an individual.

(2) Injury, trauma or illness requiring inpatient hospitalization, that occurs while the individual is at the facility or under the supervision of the facility.

(3) A suicide attempt by an individual.

(4) A violation or alleged violation of an individual's rights.

(5) An individual whose absence is unaccounted for, and is therefore presumed to be at risk.

(6) The misuse or alleged misuse of an individual's funds or property.

(7) An outbreak of a serious communicable disease, as defined in 28 Pa. Code § 27.2 (relating to specific identified reportable diseases, infections and conditions) to the extent that confidentiality laws permit reporting.

(8) An incident requiring the services of a fire department or law enforcement agency.

(9) A condition, except for snow or ice conditions, that results in closure of the facility for more than 1 scheduled day of operation.

(b) Written policies and procedures on the prevention, reporting, investigation and management of unusual incidents shall be developed and kept at the facility.

(c) The facility shall orally notify, within 24 hours after abuse or suspected abuse of an individual or an incident requiring the services of a fire department or law enforcement agency occurs:

(1) The county mental health and intellectual disability program of the county in which the facility is located if the individual involved in the unusual incident has mental illness or an intellectual disability.

(2) The funding agency.

(3) The appropriate regional office of the Department.

(d) The facility shall initiate an investigation of the unusual incident and complete and send copies of an unusual incident report on a form specified by the Department, within 72 hours after an unusual incident occurs, to:

(1) The county mental health and intellectual disability program of the county in which the facility is located if the individual involved in the unusual incident has mental illness or an intellectual disability.

(2) The funding agency.

(3) The appropriate regional office of the Department.

(e) At the conclusion of the investigation the facility shall send a copy of the final unusual incident report to:

(1) The county mental health and intellectual disability program of the county in which the facility is located if the individual involved in the unusual incident has mental illness or an intellectual disability.

(2) The funding agency.

(3) The appropriate regional office of the Department.

(f) A copy of unusual incident reports relating to an individual shall be kept in the individual's record.

(g) A copy of unusual incident reports relating to the facility itself, such as those requiring the services of a fire department, shall be kept.

(h) The individual's family, if appropriate, and the residential services provider, if applicable, shall be immediately notified in the event of an unusual incident relating to the individual.

§ 2380.18. Reporting of deaths.

(a) The facility shall complete and send copies of a death report on a form specified by the Department, within 24 hours after a death of an individual that occurs at the facility or while under the supervision of the facility, to:

(1) The county mental health and intellectual disability program of the county in which the facility is located if the individual had mental illness or an intellectual disability.

(2) The funding agency.

(3) The regional office of the Department.

(b) The facility shall investigate and orally notify, within 24 hours after an unusual or unexpected death occurs:

(1) The county mental health and intellectual disability program of the county in which the facility is located if the individual had mental illness or an intellectual disability.

(2) The funding agency.

(3) The regional office of the Department.

(c) A copy of death reports shall be kept in the individual's record.

(d) The individual's family, and the residential service provider, if applicable, shall be immediately notified in the event of a death of an individual.

PROGRAM

§ 2380.182. Development, annual update and revision of the ISP.

* * * * *

(b) When an individual is not receiving services through an SCO and does not reside in a home licensed under Chapter 6400 or 6500 (relating to community

homes for individuals with an intellectual disability; and family living homes), the adult training facility program specialist shall be the plan lead when one of the following applies:

* * * * *

CHAPTER 2390. VOCATIONAL FACILITIES

GENERAL PROVISIONS

§ 2390.5. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Disabled adult—

(i) A person who because of a disability requires special help or special services on a regular basis to function vocationally.

(ii) The term includes persons who exhibit any of the following characteristics:

(A) A physical disability, such as visual impairment, hearing impairment, speech or language impairment, or other physical handicap.

(B) Social or emotional maladjustment.

(C) A neurologically based condition such as cerebral palsy, autism or epilepsy.

(D) An intellectual disability.

Documentation—Written statements that accurately record details, substantiate a claim or provide evidence of an event.

Handicapped employment—A vocational program in which the individual client does not require rehabilitation, habilitation or ongoing training to work at the facility.

ISP—Individual Support Plan—The comprehensive document that identifies services and expected outcomes for a client.

Interdisciplinary team—A group of persons representing one or more service areas relevant to identifying a client's needs, including at a minimum the county case manager if the client is funded through the county mental health and intellectual disability program, the client and the program specialist.

* * * * *

GENERAL REQUIREMENTS

§ 2390.18. Unusual incident report.

(a) An unusual incident report shall be completed by the facility on a form specified by the Department for a serious event, including death of a client, injury or illness of a client requiring inpatient hospitalization, or a fire requiring the services of a fire department. The facility shall send copies of the report to the regional office of the Department and the funding agency within 24 hours after the event occurs. A copy of unusual incident reports shall be kept on file by the facility.

(b) If an unusual incident occurs during a weekend, the regional office of the Department and the funding agency shall be notified within 24 hours after the event occurs and the unusual incident report shall be sent on the first business day following the event.

§ 2390.19. Abuse.

(a) Abusive acts against clients are prohibited.

(b) Staff or clients witnessing or having knowledge of an abusive act to a client shall report it to the chief executive officer or designee within 24 hours.

(c) The chief executive officer or designee shall investigate reports of abuse and prepare and send a report to the regional office of the Department and the funding agency within 24 hours of the initial report. If the initial report occurs during a weekend, the regional office of the Department and the funding agency shall be notified within 24 hours after the initial report and the abuse investigation report shall be sent on the first business day following the initial report. The report shall either support or deny the allegation and make recommendations for appropriate action. The chief executive officer or designee shall implement changes immediately to prevent abuse in the future.

(d) Incidents of criminal abuse shall be reported immediately to law enforcement authorities.

PROGRAM

§ 2390.152. Development, annual update and revision of the ISP.

(a) A client shall have one ISP.

(b) When a client is not receiving services through an SCO and is not receiving services in a facility or home licensed under Chapters 2380, 6400 or 6500 (relating to adult training facilities; community homes for individuals with an intellectual disability; and family living homes), the vocational facility program specialist shall be the plan lead.

(c) The plan lead shall be responsible for developing and implementing the ISP, including annual updates and revisions.

(d) The plan lead shall develop, update and revise the ISP according to the following:

(1) The ISP shall be initially developed, updated annually and revised based upon the client's current assessment as required under §§ 2380.181, 2390.151, 6400.181 and 6500.151 (relating to assessment).

(2) The initial ISP shall be developed within 90 calendar days after the client's admission date to the facility.

(3) The ISP, annual updates and revisions shall be documented on the Department-designated form located in the Home and Community Services Information System (HCSIS) and also on the Department's web site.

(4) An invitation shall be sent to plan team members at least 30 calendar days prior to an ISP meeting.

(5) Copies of the ISP, including annual updates and revisions under § 2390.156 (relating to ISP review and revision), shall be provided as required under § 2390.157 (relating to copies).

Subpart E. RESIDENTIAL AGENCIES/FACILITIES/SERVICES

CHAPTER 2600. PERSONAL CARE HOMES

GENERAL PROVISIONS

§ 2600.4. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Appropriate assessment agency—An organization serving adults who are older or adults with disabilities, such as a county mental health/intellectual disability agency, a drug and alcohol agency, an area agency on aging or another human service agency, or an individual in an occupation maintaining contact with adults who are older and adults with disabilities, such as medicine, nursing or rehabilitative therapies.

* * * * *

STAFFING

§ 2600.64. Administrator training and orientation.

* * * * *

(b) The standardized Department-approved administrator training course specified in subsection (a)(2) shall include the following:

* * * * *

(11) Care for residents with an intellectual disability.

* * * * *

§ 2600.65. Direct care staff person training and orientation.

* * * * *

(d) Direct care staff persons hired after April 24, 2006, may not provide unsupervised ADL services until completion of the following:

(1) Training that includes a demonstration of job duties, followed by supervised practice.

(2) Successful completion and passing the Department-approved direct care training course and passing of the competency test.

(3) Initial direct care staff person training to include the following:

(i) Safe management techniques.

(ii) ADLs and IADLs.

(iii) Personal hygiene.

(iv) Care of residents with dementia, mental illness, cognitive impairments, an intellectual disability and other mental disabilities.

* * * * *

(f) Training topics for the annual training for direct care staff persons shall include the following:

(1) Medication self-administration training.

(2) Instruction on meeting the needs of the residents as described in the preadmission screening form, assessment tool, medical evaluation and support plan.

(3) Care for residents with dementia and cognitive impairments.

(4) Infection control and general principles of cleanliness and hygiene and areas associated with immobility, such as prevention of decubitus ulcers, incontinence, malnutrition and dehydration.

(5) Personal care service needs of the resident.

(6) Safe management techniques

(7) Care for residents with mental illness or an intellectual disability, or both, if the population is served in the home.

* * * * *

SERVICES

§ 2600.222. Community social services.

Residents shall be encouraged and assisted in the access to and use of social services in the community which may benefit the resident, including a county mental health and intellectual disability program, a drug and alcohol program, a senior citizens center, an area agency on aging or a home health care agency.

§ 2600.224. Preadmission screening.

(a) A determination shall be made within 30 days prior to admission and documented on the Department's preadmission screening form that the needs of the resident can be met by the services provided by the home.

(b) An applicant whose personal care service needs cannot be met by the home shall be referred to a local appropriate assessment agency.

(c) The preadmission screening shall be completed by the administrator or designee. If the resident is referred by a State-operated facility, a county mental health and intellectual disability program, a drug and alcohol program or an area agency on aging, a representative of the referral agent may complete the preadmission screening.

§ 2600.228. Notification of termination.

* * * * *

(h) The only grounds for discharge or transfer of a resident from a home are for the following conditions:

(1) If a resident is a danger to himself or others.

(2) If the legal entity chooses to voluntarily close the home, or a portion of the home.

(3) If a home determines that a resident's functional level has advanced or declined so that the resident's needs cannot be met in the home. If a resident or the resident's designated person disagrees with the home's decision to discharge or transfer, consultation with an appropriate assessment agency or the resident's physician shall be made to determine if the resident needs a higher level of care. A plan for other placement shall be made as soon as possible by the administrator in conjunction with the resident and the resident's designated person, if any. If assistance with relocation is needed, the administrator shall contact appropriate local agencies, such as the area agency on aging, county mental health/intellectual disability program or drug and alcohol program, for assistance. The administrator shall also contact the Department's personal care home regional office.

(4) If meeting the resident's needs would require a fundamental alteration in the home's program or building site, or would create an undue financial or programmatic burden on the home.

(5) If the resident has failed to pay after reasonable documented efforts by the home to obtain payment.

(6) If closure of the home is initiated by the Department.

(7) Documented, repeated violation of the home rules.

CHAPTER 2800. ASSISTED LIVING RESIDENCES

GENERAL PROVISIONS

§ 2800.4. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Appropriate assessment agency—An organization serving adults who are older or adults with disabilities, such as a county mental health/intellectual disability agency, a drug and alcohol agency, an area agency on aging or another human service agency, or an individual in an occupation maintaining contact with adults who are older and adults with disabilities, such as medicine, nursing or rehabilitative therapies.

* * * * *

Health care or human services field—Includes the following:

(i) Child welfare services.

(ii) Adult services.

(iii) Older adult services.

(iv) Mental health/intellectual disability services.

(v) Drug and alcohol services.

(vi) Services for individuals with disabilities.

(vii) Medicine.

(viii) Nursing.

(ix) Rehabilitative services.

(x) Any other human service or occupation that maintains contact with adults who are older or adults and children with disabilities.

* * * * *

STAFFING

§ 2800.64. Administrator training and orientation.

* * * * *

(b) The standardized Department-approved administrator training course specified in subsection (a)(2) must include the following:

* * * * *

(11) Care for residents with an intellectual disability.

* * * * *

§ 2800.65. Staff orientation and direct care staff person training and orientation.

* * * * *

(g) Direct care staff persons may not provide unsupervised assisted living services until completion of 18 hours of training in the following areas:

(1) Training that includes a demonstration of job duties, followed by supervised practice.

(2) Successful completion and passing the Department-approved direct care training course and passing of the competency test.

(3) Initial direct care staff person training to include the following:

(i) Safe management techniques.

(ii) Assisting with ADLs and IADLs.

(iii) Personal hygiene.

(iv) Care of residents with mental illness, neurological impairments, an intellectual disability and other mental disabilities.

* * * * *

(i) Training topics for the annual training for direct care staff persons must include the following:

(1) Medication self-administration training.

(2) Instruction on meeting the needs of the residents as described in the assessment tool, medical evaluation and support plan.

(3) Care for residents with dementia, cognitive and neurological impairments.

(4) Infection control and general principles of cleanliness and hygiene and areas associated with immobility, such as prevention of decubitus ulcers, incontinence, malnutrition and dehydration.

(5) Assisted living service needs of the resident.

(6) Safe management techniques.

(7) Care for residents with mental illness or an intellectual disability, or both, if the population is served in the residence.

* * * * *

SERVICES

§ 2800.222. Community social services.

Residents shall be encouraged and assisted in the access to and use of social services in the community which may benefit the resident, including a county mental health and intellectual disability program, a drug and alcohol program, a senior citizens center, an area agency on aging or a home health care agency.

§ 2800.228. Transfer and discharge.

* * * * *

(h) The only grounds for transfer or discharge of a resident from a residence are for the following conditions:

(1) If a resident is a danger to himself or others and the behavior cannot be managed through interventions, services planning or informed consent agreements.

(2) If the legal entity chooses to voluntarily close the residence, or a portion of the residence.

(3) If a residence determines that a resident's functional level has advanced or declined so that the resident's needs cannot be met in the residence under § 2800.229 (relating to excludable conditions; exceptions) or within the scope of licensure for a residence. In that case, the residence shall notify the resident and the resident's designated person. The residence shall provide justification for the residence's determination that the needs of the resident cannot be met. In the event that there is no disagreement related to the transfer or discharge, a plan for other placement shall be made as soon as possible by the administrator in conjunction with the resident and the resident's designated person, if any. If assistance with relocation is needed, the administrator shall contact appropriate local agencies, such as the area agency on aging, county mental health/intellectual disability program or drug and alcohol program, for assistance. The administrator shall also contact the Department.

* * * * *

PART V. CHILDREN, YOUTH AND FAMILIES MANUAL

Subpart E. RESIDENTIAL AGENCIES, FACILITIES AND SERVICES

ARTICLE I. LICENSING/APPROVAL

CHAPTER 3800. CHILD RESIDENTIAL AND DAY TREATMENT FACILITIES

GENERAL PROVISIONS

§ 3800.3. Exemptions.

This chapter does not apply to the following:

(1) Child residential and child day treatment facilities operated directly by the Department.

(2) Transitional living residences which are located in freestanding private residences.

(3) Residential camps for children who are enrolled in a grade or educational level higher than kindergarten which operate for fewer than 90 days per year.

(4) Residential children's schools which are licensed and operated solely as private academic schools or registered and operated solely as nonpublic nonlicensed schools by the Department of Education.

(5) Foster care homes that are licensed under Chapter 3700 (relating to foster family care agency).

(6) Family living homes for children with an intellectual disability that are licensed under Chapter 6500 (relating to family living homes).

(7) Community homes for individuals with an intellectual disability that provide care to both children and adults in the same facility and that are licensed under Chapter 6400 (relating to community homes for individuals with an intellectual disability).

(8) Community residences for individuals with mental illness that provide care to both children and adults in the same facility or community residential host homes for individuals with mental illness that are certified under Chapter 5310 (relating to community residential rehabilitation services for the mentally ill).

(9) Drug and alcohol residential facilities that provide care exclusively to residents whose sole need is the treatment of drug and alcohol dependence and that are licensed under 28 Pa. Code Chapters 701, 704 and 709 (relating to general provisions; staffing requirements for drug and alcohol treatment activities; and standards for licensure of freestanding treatment facilities).

(10) Child day care facilities certified or registered under Chapter 3270, 3280 or 3290 (relating to child day care centers; group child day care homes; and family child day care homes).

(11) Private homes of persons providing care to a relative, except homes in which children live with their own children but no other relative, unless the home is a transitional living residence that is exempt from this chapter under paragraph (2).

§ 3800.5. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Child—An individual who meets one of the following conditions:

(i) Is under 18 years of age.

(ii) Is under 21 years of age and committed an act of delinquency before reaching 18 years of age and remains under the jurisdiction of the juvenile court.

(iii) Was adjudicated dependent before reaching 18 years of age and while engaged in instruction or treatment, requests the court to retain jurisdiction until the instruction or treatment is completed, but a child may not remain in a course of instruction or treatment past 21 years of age.

(iv) Has an intellectual disability, a mental illness or a serious emotional disturbance, with a transfer plan to move to an adult setting by 21 years of age.

* * * * *

GENERAL REQUIREMENTS

§ 3800.20. Confidentiality of records.

(a) The facility shall comply with the following statutes and regulations relating to confidentiality of records, to the extent applicable:

(1) 23 Pa.C.S. §§ 6301—6386 (relating to Child Protective Services Law).

(2) 23 Pa.C.S. §§ 2101—2938 (relating to Adoption Act).

(3) The Mental Health Procedures Act (50 P.S. §§ 7101—7503).

(4) Section 602(d) of the Mental Health and Intellectual Disability Act of 1966 (50 P.S. § 4602(d)).

(5) The Confidentiality of HIV-Related Information Act (35 P.S. §§ 7601—7612).

(6) Sections 5100.31—5100.39 (relating to confidentiality of mental health records).

(7) Sections 3490.91—3490.95 (relating to confidentiality).

(8) Other applicable statutes and regulations.

(b) The following confidentiality requirements apply unless in conflict with the requirements of applicable statutes and regulations specified in subsection (a):

(1) A child's record, information concerning a child or family, and information that may identify a child or family by name or address, is confidential and may not be disclosed or used other than in the course of official facility duties.

(2) Information specified in paragraph (1) shall be released upon request only to the child's parent, the child's guardian or custodian, if applicable, the child's and parent's attorney, the court and court services, including probation staff, county government agencies, authorized agents of the Department and to the child if the child is 14 years of age or older. Information may be withheld from a child if the information may be harmful to the child. Documentation of the harm to be prevented by withholding of information shall be kept in the child's record.

(3) Information specified in paragraph (1) may be released to other providers of service to the child if the information is necessary for the provider to carry out its responsibilities. Documentation of the need for release of the information shall be kept in the child's record.

(4) Information specified in paragraph (1) may not be used for teaching or research purposes unless the information released does not contain information which would identify the child or family.

(5) Information specified in paragraph (1) may not be released to anyone not specified in paragraphs (2)—(4), without written authorization from the court, if applicable, and the child's parent and, if applicable, the child's guardian or custodian.

(6) Release of information specified in paragraph (1) may not violate the confidentiality of another child.

STAFFING

§ 3800.56. Exceptions for staff qualifications.

(a) The staff qualification requirements specified in §§ 3800.53(c), 3800.54(d), 3800.55(g) and 3800.283(1) do not apply to staff persons hired or promoted to the specified positions prior to October 26, 1999.

(b) For facilities previously certified under Chapter 5310 or 6400 (relating to community residential rehabilitation services for the mentally ill; and community homes for individuals with an intellectual disability), the age requirements specified in § 3800.55(h) (relating to child care worker) do not apply to staff persons hired, or counted in the worker to child ratio, prior to October 26, 1999.

PART VI. MENTAL HEALTH/INTELLECTUAL DISABILITY/AUTISM MANUAL

Subpart C. ADMINISTRATION AND FISCAL MANAGEMENT

CHAPTER 4200. COUNTY BOARD AND PROGRAM ADMINISTRATION

GENERAL PROVISIONS

§ 4200.1. Purpose.

The purpose of this chapter is to specify requirements for the county mental health and intellectual disability board and the county mental health and intellectual disability administrator.

§ 4200.2. Applicability.

This chapter applies to county mental health/intellectual disability (MH/ID) programs.

§ 4200.3. Legal base.

The legal authority for this chapter is section 201(2) of the Mental Health and Intellectual Disability Act of 1966 (50 P.S. § 4201(2)).

§ 4200.4. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The Mental Health and Intellectual Disability Act of 1966 (50 P.S. §§ 4101—4704).

Administrator—The county mental health and intellectual disability administrator appointed by the local authorities.

Board—The county mental health and intellectual disability board appointed by the local authorities.

County—A county or a first class city.

Department—The Department of Human Services of the Commonwealth.

Facility—A mental health establishment, hospital, clinic, institution, center, day care center or other organizational unit, or part thereof, which is devoted primarily to the diagnosis, treatment, care, rehabilitation or detention of individuals with a mental disability.

Intellectual disability—Subaverage general intellectual functioning which originates during the developmental period and is associated with impairment of maturation, learning or social adjustment.

Local authorities—The county commissioners of a county, or the city councils and the mayors of first class cities, or two or more of these acting in concert.

Mental disability—A mental illness, mental impairment, intellectual disability, or mental deficiency, which so lessens the capacity of a person to use his customary self-control, judgment and discretion in the conduct of his affairs and social relations as to make it necessary or advisable for him to be under care as provided in the act. The term includes conditions and terms heretofore defined as "mental retardation," "insanity," "unsoundness of mind," "lunacy," "mental disease," "mental disorder," "feebleminded," "moron," "idiot" and "imbecile." The term does not include senility, unless mental illness or intellectual disability is superimposed.

Nurse—A person licensed by the State Board of Nursing to engage in the practice of professional nursing within the meaning of The Professional Nurse Law (63 P.S. §§ 211—225.5).

Physician—A physician licensed to practice in this Commonwealth.

Program—A mental health and intellectual disability program established by the local authorities and includes a complex of services providing a continuum of care in the community for the mentally disabled.

Psychiatrist—A physician who by years of study, training and experience has achieved professional recognition and standing in the field of psychiatry.

Psychologist—A person who by years of study, training and experience has achieved professional recognition and standing in the field of clinical psychology.

Secretary—The Secretary of the Department.

Social worker—A person who by years of study, training, and experience has achieved professional recognition and standing in the field of social work.

CONSTITUTION OF THE BOARD

§ 4200.11. Single county board.

Except in counties of the first class where the board will be appointed, and members will hold office under the provisions of the city charter, the local authorities of a county shall appoint a board which must consist of 13 resident members constituted as follows:

(1) One representative of the board of county commissioners.

(2) At least two physicians and, when possible, one shall be a psychiatrist and the other a pediatrician.

(3) There shall be appropriate representation drawn from the following groups:

(i) The professional fields of psychology, social work, nursing, education and religion.

(ii) Local citizens' organizations active in the field of mental health.

(iii) Local citizens' organizations active in the field of intellectual disability.

(iv) Local health and welfare planning organizations.

(v) Local general hospitals.

(vi) Community groups whose membership represents the economically, socially, and culturally disadvantaged.

(4) Appropriate representation shall be deemed to mean representation approved by the Secretary and shall include the following:

(i) At least two representatives from paragraph (3)(i).

(ii) At least one representative from paragraph (3)(ii) and (iii).

(iii) At least one from either paragraph (3)(iv) or (v).

(iv) At least one, two when possible, from paragraph (3)(vi).

DUTIES TO THE BOARD

§ 4200.24. Powers and duties.

The board shall have the power and its duty shall be:

(1) To review and evaluate mental health and intellectual disability needs, services, facilities, and special problems in relation to the local health and welfare needs, services and programs.

(2) Except in cities of the first class, to recommend to local authorities not less than two persons for the position of administrator. Persons shall meet the standards of professional skill and experience as defined in § 4200.33 (relating to qualifications).

(3) To develop, together with the administrator, annual plans for the program.

(4) To make recommendations to the local authorities regarding the program and other matters relating to mental health and intellectual disability services in the county, including purchase of service, contracts and funds required to implement the program.

(5) To review performance under the program and to recommend a system of program evaluation. The system of program evaluation recommended by the board, in accordance with this section, will be on file with the administrator, the local authorities, and the Department.

(6) To perform other functions as required.

ADMINISTRATOR

§ 4200.32. Powers and duties.

The administrator shall have the power and his duty shall be:

(1) To administer the program.

(2) To insure that mental health and intellectual disability services required by the act are available.

(3) To attend board meetings and to provide staff services to the board.

(4) To make reports to the Department in form and containing the information as may be required.

(5) To develop, together with the board annual plans for the program.

(6) To submit to local authorities annual plans and estimated costs for the provision of service, establishment and operation of facilities, and other related matters for review, approval and transmittal to the Department.

(7) To review and evaluate facilities and to cooperate with the Department in the maintenance of established standards.

(8) To maintain liaison with governmental and private community health and welfare agencies and organizations and State-operated facilities.

(9) To submit an annual report to the local authorities, the board and the Department reporting the activities of the program and his administration thereof.

(10) To analyze and evaluate mental health and intellectual disability needs and services in the county and recommend improvements to the board and local authorities, conduct research studies and take steps and adopt measures as are necessary for the proper discharge of his duties.

(11) To designate a competent person on his staff to act for him during his absence.

(12) To designate facilities for the purposes of the act or as places of reception.

(13) To perform other functions as required.

§ 4200.33. Qualifications.

The minimum requirements for the position of the administrator shall be 5 years' progressively responsible experience in fields as medicine, clinical psychology, social work, sociology, nursing, public health, education, hospital administration or public administration including 3 years' experience in the planning, development, or administration of mental health or intellectual disability services, and a bachelor's degree from an accredited college or university, supplemented by graduate study to the level of a master's degree. Appropriate experience may be substituted for the required graduate study on a year for year basis.

CHAPTER 4210. DESCRIPTION OF SERVICES AND SERVICE AREAS

GENERAL PROVISIONS

§ 4210.1. Purpose.

This chapter specifies the range of services that must be provided or arranged by the county Mental Health/Intellectual Disability (MH/ID) Program.

§ 4210.2. Applicability.

This chapter applies to county Mental Health/Intellectual Disability (MH/ID) Programs.

§ 4210.4. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The Mental Health and Intellectual Disability Act of 1966 (50 P.S. §§ 4101—4704).

Annual plan—The description, submitted to the Department, of the services to be provided through the county program, the facilities which will furnish services, and the terms under which services will be furnished.

Catchment area—A geographical territory of a city, county or combination of counties which has a minimum population of 75,000 and a maximum population of 200,000 and in which a full range of mental health and intellectual disability services is available.

Department—The Department of Human Services of the Commonwealth.

Mental health/intellectual disability (MH/ID) establishment—Premises or parts thereof, private or public, for the care of individuals who require care because of mental illness, an intellectual disability or inebriety. The term does not include the private home of a person who is rendering care to a relative.

§ 4210.5. General purpose and principles.

The purpose of the act is to make it possible for every person with a mental disability to receive the kind of treatment he needs, when and where he needs it. The act requires that a range of services be available to persons with a mental illness or an intellectual disability so that they will receive a comprehensive treatment program through a continuum of care in their own communities and, whenever possible, while they remain in their own homes.

§ 4210.6. Scope of the program.

(a) The minimum services to be made available by counties are specified in the act. These services may be provided outside the county program by the Department if a waiver has been granted under section 508 of the act (50 P.S. § 4508). These mental health and intellectual disability services must be available to persons of any age with a mental disability. Mental illness, mental impairment, intellectual disability or mental deficiency is a mental disability if it so lessens the capacity of a person to use customary self-control, judgment and discretion in the conduct of his affairs and social relations as to make it necessary or advisable for him to receive mental health or intellectual disability services.

* * * * *

(e) For the program to be effective, not only are services to patients necessary; also essential are consultation to welfare, probation, court, health, school, and other agencies as well as specifically those organizations whose membership represents the low income consumer community to help them to:

(1) Identify their own clients who are in need of services because of serious mental disability.

(2) Strengthen their staffs' ability to help their clients solve their problems and thus prevent the development of seriously impaired psycho-social functioning.

(3) Differentiate their services from those of specialized mental health or intellectual disability facilities and to provide their agency services to persons with a mental disability as freely as to other members of the community.

(4) Be aware of the mental health and intellectual disability implications of their programs.

GENERAL REQUIREMENTS

§ 4210.11. Community mental health and intellectual disability centers.

For that portion of a county served by a community mental health or intellectual disability center, the local authorities shall contract with them for the services specified in the act, to be made available by counties, which the center can provide. If the local authorities do not wish to contract with an existing center on the grounds that its operations are inconsistent with the county program, the annual plan must substantiate the allegations in detail.

§ 4210.12. Court committed patients.

Regulations and programs pertaining to intake, transfer, leave of absence and discharge of patients are subject to specific court orders relating to individual court committed patients under the provisions of Article IV of the act (50 P.S. §§ 4401—4426). It is the responsibility of the administrator to designate appropriate mental health and intellectual disability facilities to which the court may commit patients. The designations may be made by way of prior blanket notification to the court or on an ad hoc basis.

BASE SERVICE UNIT

§ 4210.26. Methods of providing base service units.

(a) To the extent that a community mental health or intellectual disability center can staff a base service unit, the local authorities shall contract with it to carry out the responsibilities and provide the functions of the base service unit in the manner determined by the administrator under the same conditions as described for services in § 4210.11 (relating to community mental health and intellectual disability centers). To the extent that a center cannot fully staff a base service unit, the local authorities shall contract with the center for those services which it can furnish and, in the same contract, with other persons or facilities as necessary and appropriate to complete the staffing of a base service unit.

(b) The local authorities may staff base service units fully or partly by employing personnel directly on the staff of the administrator.

(c) The local authorities may contract for supplemental services required by base service units.

SHORT TERM INPATIENT SERVICES

§ 4210.32. Where services may be provided.

Short term inpatient services may be furnished by mental health/intellectual disability (MH/ID) establishments by the Department to give short term inpatient care, or by State general hospitals approved to furnish such services.

EMERGENCY SERVICES

§ 4210.42. Where services may be provided.

Emergency services shall be provided by a community mental health or intellectual disability center where feasible or by other licensed or approved facilities with whom the local authorities may contract to provide these services. Comprehensive community-wide 24 hour a day emergency services may be directly operated by the Administrator.

OUTPATIENT SERVICES

§ 4210.51. Description.

Outpatient services consist of the following: diagnosis, evaluation and treatment of persons with a mental disability who live outside of a mental health or intellectual disability institution while receiving services. This includes working with the patient, his family and significant other persons, utilizing such personnel and modalities as are appropriate to the needs of the patient. As one of the services in the continuum of care established by the county program, outpatient services may precede or follow inpatient care for some individuals and for others may continue while they receive rehabilitative services including sheltered workshop or training services.

§ 4210.52. Where services may be provided.

Outpatient services may be furnished under the county program by the base service unit, by community mental health and intellectual disability providers, by community clinics or by clinics conducted by hospitals or by institutions for persons with a mental disability. Facilities providing outpatient services must be licensed as mental health/intellectual disability (MH/ID) establishments to give outpatient services or, if operated by the State, meet the standards for these services.

PARTIAL HOSPITALIZATION

§ 4210.62. Where services may be provided.

Partial hospitalization services may be furnished by mental health/intellectual disability (MH/ID) establishments licensed by the Department to give partial hospitalization care, or by State general hospitals approved to furnish services.

REHABILITATIVE AND TRAINING SERVICES

§ 4210.71. Description.

(a) Rehabilitative and training services are ancillary to mental health and intellectual disability care provided on an inpatient or outpatient basis.

(b) These services consist of vocational evaluation, work adjustment training, job placement and group living experiences to assist an individual handicapped by mental disability, who may or may not have a physical disability, to reach his best level of social and vocational adaptation. According to the capacity of each individual, services may be successful if they result in competitive employment, transitional or indefinite employment in a sheltered workshop or work activity center, ability to maintain a home, or in enabling the client to achieve his maximum possible level or independent living.

(c) These services consist of group programs for teaching or improving self care, personal behavior and social adjustment for persons with a mental disability. Through group training, day care centers may prepare children with a mental disability to attend special classes in the public schools. For other children and for adults these services make continued community living possible by raising the level of social competency and by decreasing the necessity of constant supervision given by their families and others. The services shall include extended work activity programs in sheltered workshops or work activity centers.

INTERIM CARE OF INDIVIDUALS WITH AN INTELLECTUAL DISABILITY

§ 4210.91. Description.

(a) All of the patient services described previously shall be available to persons with an intellectual disability. In addition, interim care is exclusively for those persons with an intellectual disability.

(b) Inpatient care of persons with an intellectual disability is the responsibility of State operated institutions. The final determination as to whether a person is in need of inpatient care is the responsibility of the Department. When the Department determines that a person is eligible for care in a State operated facility, but that there is no room for him at the time of that determination, the Department will place the person on a waiting list. Interim care is intended for a person who, having been removed from his home, is on a waiting list.

§ 4210.92. Where interim care may be provided.

The Department will approve interim care placement in an appropriate licensed mental health/intellectual disability establishment. Placements may be made in institutions similarly licensed by neighboring states when the placement brings services closer to the person's home and when equally appropriate facilities are not available in this Commonwealth.

§ 4210.93. Application to State institution.

When the base service unit determines in a case that a person appears to be in need of inpatient care for individuals with an intellectual disability it shall forward a completed Preliminary Application, ID-71, to the appropriate State school and hospital.

INTAKE PROCEDURES

§ 4210.101. Services provided by a base service unit.

(a) All intake into the county program shall be through the base service unit. Within 15 days of the initial interview, if the client is found in need of services from the county program, the Intake and Proposed Service Plan, Form MH/ID 10, is completed and forwarded in two copies to the administrator.

(b) When recommending treatment, a base service unit develops a service plan best suited to the needs of the patient and the available service resources. The base service unit classifies the patient's mental disability to reflect the severity of his functional disorder and priority for intervention according to the Intervention Priority Scale in § 4210.191 (relating to description).

(c) If service is to be provided by the base service unit, the Intake and Proposed Service Plan, Form MH/ID 10, serves only to inform the administrator that intake has taken place and what is planned for the patient. No additional approval is necessary for the base service unit to proceed with its proposed service plan. In addition this form provides the basic information necessary for the patient service accountability system described in § 4210.121 (relating to patient service accountability system).

(d) If the recommendation of the base service unit on Form MH/ID 10 is for a service to be provided by a facility already under contract to the local authorities, the base service unit shall make arrangements directly with the facility to provide the services required by the patient.

(e) If the recommendation of the base service unit on Form MH/ID 10 is to arrange for supplemental services, the administrator uses Form MH/ID 10 as his basis for issuing an Authorization for Service, Form MH/ID 11. This authorization for service shall constitute a contract as described in § 4210.26(c) (relating to methods of providing base service units).

(f) In those instances where the patient is already under care by other than a base service unit and is referred for intake into the county program, arrangements should be made, whenever possible and indicated, for him to continue this treatment with the referring practitioner or facility to maintain continuity of care. The base service unit requests the administrator's authorization of this proposed service plan.

(g) If any portion of the cost of the patient's care under the proposed service plan is to be paid from funds of the county program, the administrator's decision is governed by the availability of funds and the requests for services to other patients. The administrator is guided in his decision by the base service unit's classification of the patient's mental disability according to the intervention priority scale. When the funds available do not permit the carrying out of the proposed service plan in relation to other demands, the administrator notes this on the Intake and Proposed Service Plan, Form MH/ID 10, and requests the base service unit to work out an alternate service plan if indicated and necessary.

LIABILITY

§ 4210.113. Client liability.

(a) When the patient is not eligible for payment of a portion of the cost of his care through a benefit, he and his legally responsible relatives are liable for payment of that portion of the cost of his care not covered by payment through a benefit. The extent of this liability shall be determined according to the procedure described in Chapter 4305 (relating to liability for community mental health and intellectual disability services).

(b) The extent of liability so determined is the total liability of the patient and his legally responsible relatives for all services rendered during the specified time and as such includes drugs.

RECORDS

§ 4210.123. Report of services provided.

(a) All services provided are reported on Service Rendered Report, Form MH/ID 13. Regardless of where services are provided, this form must be processed through the base service unit which serves the area in which the patient resides so that the base service unit can continue to monitor the services provided. Where the service is on a continuing basis, the service rendered report may be a monthly summary. If the base service unit certifies Form MH/ID 13 indicating that the report is in keeping with the proposed service plan, Form MH/ID 13 shall be forwarded to the administrator for payment.

(b) At all times, there must be due respect for confidentiality. Service rendered reports should include only basic data concerning the course of service to the patient and his progress in general, and must not contain therapy notes or information communicated by the patient which could be considered confidential.

CONSULTATION AND EDUCATION SERVICES

§ 4210.141. General requirements.

For the county program to be effective, consultation and education services are essential. The administrator shall arrange for the consultation and education services as are necessary to carry out the functions described in § 4210.6 (relating to scope of the program), by developing a county-wide program for these services. This program shall reflect:

(1) The requests received by the administrator from community agencies and groups for consultation and education services.

(2) Consultation and education services which the administrator plans to provide.

(3) Consultation and education services which the administrator has arranged to be provided by community mental health or intellectual disability centers, by other facilities serving persons with a mental disability and by individual practitioners in the fields of mental health and intellectual disability.

§ 4210.142. Consultation service.

Consultation service is an organized method by which professional advice is given by a practitioner in the mental health or intellectual disability fields to a practitioner of another discipline or field regarding the mental health or intellectual disability aspects of a problem and the most effective way of dealing with these aspects. The problem may be that of an individual, a specific group or a community. Consultation service by extending the expertise of a mental health or intellectual disability practitioner enables the consultee to become a more effective care-giving person thus making possible a greater use of mental health and intellectual disability professionals as well as identifying those persons who are a high risk. In addition to dealing with individual care-giving persons, mental health and intellectual disability consultation service can also be of great benefit in helping a variety of agencies and groups to be aware of the mental health and intellectual disability implications of their programs and to develop more appropriate and effective services.

§ 4210.143. Education service.

Education service is an organized method by which a practitioner in the field of mental health or intellectual disability furnishes professional groups, community agencies and the general public with information about mental health and intellectual disability. By disseminating mental health and intellectual disability information, education service facilities both primary and secondary prevention by the early identification of those members of the population who are at risk. When possible, provisions should be made by the administrator through base service units or other contractual facilities for sufficient outreaching personnel with the objective of bringing persons so identified into the care-taking network. In the field of tertiary prevention, education is important in helping the public accept persons with a mental disability, provide employment and in other ways enhance their returning to and remaining in the community in useful roles.

§ 4210.144. How services may be provided.

(a) The administrator may provide for consultation and education services through the following:

(1) Utilizing his own staff.

(2) Contracting with community mental health and intellectual disability centers and with other facilities serving persons with a mental disability.

(3) Payment of a fee to individual practitioners in the fields of mental health and intellectual disability.

(b) Although consultation and education services are provided as a specific element of the county program, both the administrator and the providers of these services shall conduct a continuing investigation of sources available for funding consultation and education services, and assist the prospective recipients in their effort to secure funding.

TRAINING OF PERSONNEL

§ 4210.151. Description.

Training of personnel may include:

(1) In-service instruction regarding objectives, regulations, procedures and other matters specific to the county program.

(2) Staff development through attendance at State, regional and National meetings in the fields of mental health and intellectual disability.

§ 4210.153. Staff development.

Expenses for staff development may be authorized by the local authorities for the administrator, the program personnel of his staff and the program personnel of services provided under contract with the local authorities to attend State, regional and National meetings in the fields of mental health and intellectual disability.

PROGRAM AND SERVICES EVALUATION

§ 4210.182. Responsibility for the program and services evaluation.

(a) Under the act, the evaluation is a joint responsibility of the administrator and the Board.

(b) The responsibility of the administrator for the evaluation shall be to:

(1) Review and evaluate facilities, and to cooperate with the Department in the maintenance of established standards.

(2) Analyze and evaluate mental health and intellectual disability needs and services in the county.

(3) Recommend improvements to the Board and local authorities.

(c) The Board shall have the following responsibility for the evaluation:

(1) To recommend a system of program evaluation.

(2) To appoint a utilization review committee composed of at least one member of the Board and a multidiscipline group selected from the base service units and nearby State facilities to assist the administrator in his evaluation.

(3) Based on the analysis prepared by the administrator, to review and evaluate the county's mental health and intellectual disability needs, services, facilities and special problems in relation to the local health and welfare needs, services and programs.

(4) To make recommendations to the local authorities regarding the program and other matters relating to mental health and intellectual disability services in the county.

INTERVENTION PRIORITY SCALE

§ 4210.191. Description.

The base service unit classifies the patient's mental disability to reflect the severity of his functional disorders and priority for intervention. This is noted on I, II, III or IV on Intake and Proposed Service Plan, Form MH/ID 10, under the following Intervention Priority Scale:

* * * * *

CHAPTER 4215. ANNUAL PLAN AND ESTIMATE OF EXPENDITURES

GENERAL PROVISIONS

§ 4215.1. Purpose.

The purpose of this chapter is to specify the requirements for submission of an annual plan and estimate of expenditures by County Mental Health and Intellectual Disability (MH/ID) Programs to the Department.

§ 4215.2. Applicability.

This chapter applies to county mental health/intellectual disability (MH/ID) programs.

§ 4215.3. Legal base.

The legal authority for this chapter is section 201(2) of the Mental Health and Intellectual Disability Act of 1966 (50 P.S. § 4201(2)).

§ 4215.4. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Approve—Acceptance based upon formal compliance with this chapter. The term does not imply the Department's agreement with the content of county mental health/intellectual disability (MH/ID) annual plan and estimate of expenditures regarding budget priorities.

Board—A group of persons appointed by the local authorities of a county, or two or more counties participating in concert in a county mental health and intellectual disability program, to review and evaluate the county's MH/ID needs, services, facilities and special problems in relation to local health and welfare needs, services and programs.

County administrator—The administrator of the county mental health and intellectual disability program, or the administrator's designee.

Department—The Department of Human Services of the Commonwealth.

Local authorities—The county commissioners or county executives of a county, or the city councils and the mayors of first class cities, or two or more of these acting in concert.

Secretary—The Secretary of the Department of Human Services.

GENERAL REQUIREMENTS

§ 4215.21. Preparation of annual plan and estimate of expenditures.

The county mental health/intellectual disability (MH/ID) administrator and the Board shall prepare an annual plan and estimate of expenditures in accordance with written instructions specified by the Department, including, but not limited to, instructions on budget estimates, needs assessments, and goal statements. The annual plan and estimate of expenditure shall describe how the services specified in Chapter 4210 (relating to description of services and service areas) are to be made available and shall estimate the anticipated expenditures for the services.

§ 4215.22. Public hearing.

(a) The county mental health/intellectual disability (MH/ID) administrator and the Board shall hold a public hearing to consider the annual plan and estimate of expenditures, prior to submission of the annual plan and estimate of expenditures to the Department.

(b) The county MH/ID administrator shall give adequate notice of the date, time and location of the public hearing to persons affected by the annual plan and estimate of expenditures.

(c) The county MH/ID administrator shall provide notification of the public hearing through a widely distributed local newspaper, prior to the public hearing.

§ 4215.23. Report of the public hearing.

(a) The county mental health/intellectual disability (MH/ID) administrator shall prepare and maintain a summary report of the public hearing, including a list of people who testified and written comments received.

(b) The county MH/ID administrator shall provide copies of the summary report of the public hearing to the Department upon request.

§ 4215.24. Review and approval by local authorities.

(a) The county mental health/intellectual disability (MH/ID) administrator and the Board shall submit the annual plan and estimate of expenditures to the local authorities for review and approval.

(b) Local authorities shall indicate their approval by signing and dating the annual plan and estimate of expenditures.

§ 4215.25. Submission of the notice of public hearing and the annual plan and estimate of expenditures to the Department.

After approval by the local authorities, the county mental health/intellectual disability (MH/ID) administrator and the Board shall submit to the Department the notice of public hearing and the annual plan and estimate of expenditures.

§ 4215.26. Review of the annual plan and estimate of expenditures by the Department.

(a) The Department will review and approve the annual plan and estimate of expenditures against predetermined criteria.

(b) The Department will notify the county mental health/intellectual disability (MH/ID) administrator of the result of the review against predetermined criteria.

CHAPTER 4220. REIMBURSEMENT FOR MEDICATIONS

GENERAL PROVISIONS

§ 4220.1. Purpose.

This chapter specifies requirements pertaining to reimbursement by the county mental health and intellectual disability program for the cost of drugs.

§ 4220.2. Applicability.

This chapter applies to county mental health and intellectual disability programs.

§ 4220.3. Legal base.

The legal authority for this chapter is section 201(2) of the Mental Health and Intellectual Disability Act of 1966 (50 P.S. § 4201(2)).

GENERAL REQUIREMENTS

§ 4220.11. Purchase of drugs.

(a) For the cost of a drug to be reimbursed by the county mental health and intellectual disability program it must be prescribed by a practitioner licensed by statute to prescribe the drugs and must be specifically for the mental disorder under treatment. Client liability and third party revenues must be exhausted before county mental health and intellectual disability funds are used.

(b) For a pharmacy to receive reimbursement from the county mental health and intellectual disability program it must be licensed by the State Board of Pharmacy.

§ 4220.12. Limitations.

(a) Drugs in the following general categories may be reimbursed by the county mental health and intellectual disability program.

(1) Major tranquilizers. Includes:

(i) Phenothiazines.

(ii) Butyrophenones.

(iii) Thioxanthenes.

(iv) Rauwolfia Alkaloids.

(v) Dibenzoxazepines.

(vi) Molindones.

(2) Minor tranquilizers. Includes:

(i) Propanediole.

(ii) Benzodiazepines.

(iii) Diphenylmethane Derivatives.

(3) Hypnotics and sedatives. Includes:

(i) Barbiturates.

(ii) Nonbarbiturates.

(4) Antidepressants. Includes:

(i) Tricyclics.

(ii) Monomine Oxidase Inhibiters.

(iii) Lithium.

(5) Central nervous system stimulants.

(6) Anticonvulsant agents.

(7) Antiparkinsonian agents.

(8) Various geriatric psychotropic agents.

(b) The county mental health and intellectual disability program may also reimburse for an item not falling in the general categories listed in subsection (a)(1)—(8) if, in the licensed practitioner's professional opinion, it is essential for the present treatment of the patient's mental disorder. The county mental health and intellectual disability program may require, as a condition of reimbursement for these items, that prior approval be given by the County MH/ID Program. Where prior approval is required, it is the responsibility of the county administrator to ensure that proper notification of approval be given to the pharmacy at the time the prescription is presented to be filled.

(c) An initial prescription is limited to a 45-day supply and a maximum of one refill may be requested on an initial prescription. The quantity dispensed on the refill prescription cannot exceed the quantity prescribed on the initial prescription.

(d) The County MH/ID Program's maximum rate of reimbursement for drugs is the pharmacy's usual and customary charges to the general public for psychotropic drugs. Discounts given to special groups such as senior citizens must also be given to County MH/ID clients who are members of those specialized groups.

§ 4220.13. Procedures.

(a) The prescription must be made on Prescription and Pharmacist's Invoice, Form MH/ID 12. The number of refills permitted—not to exceed one—should be indicated on the MH/ID 12. It is the responsibility of the physician to ensure that the patient's drug costs are eligible for reimbursement by the County MH/ID Program and have been authorized for payment by the county administrator before using an MH/ID 12 prescription form.

(b) The pharmacy submits the MH/ID 12 on a monthly basis to the county MH/ID administrator for reimbursement. Refills of prescriptions should be reported to the county program on a monthly basis on a form of the county program's choosing.

(c) The county administrator is responsible for providing authorization for purchase of medication. The county administrator is also responsible for ensuring that the invoice is correctly priced and is for eligible drugs. The county administrator makes payment to the pharmacy for invoices submitted under subsection (b). It is the responsibility of the county administrator to ensure that patient liability and third party revenues are exhausted before County Mental Health/Intellectual Disability (MH/ID) funds are used. This responsibility may be delegated; however, the county administrator shall make every effort to ensure that pharmacies are reimbursed in a timely fashion. The goal should be reimbursement within 30 days of receipt of the claim.

§ 4220.14. Cost and quality control measures.

* * * * *

(d) The following cost control measures are available to county programs when taken in consultation with a county PTRC. These measures should only be used when limited resources cause expenditure on medication to impact adversely on other service areas. Caution should be exercised in the use of these measures. The goal of the PTRC program should be to ensure cost benefit and sound practice in the county drug program, while at the same time permitting flexibility, easy access by clients, and encouraging the private model of human service delivery and of the dispensing of drugs.

(1) The county program may establish a formulary of drugs for which it will reimburse and may exclude from that formulary specific drugs or classes of drugs even though they fall in the general categories in § 4220.12(a)

(relating to limitations). A county drug formulary must be published at least annually in a newspaper or papers having side circulation in the county program service area.

(2) The county program may establish limits on the total allocation or dollar amount for which it will reimburse.

(3) The county program may require prior approval or post-review by the PTRC for reimbursement to occur. Post-review procedures are to be preferred to prior approval procedures and should be used where possible.

(4) The county program may limit the number of refills to less than one refill, or limit the number of days to fewer than 45 days. The maximum limits under § 4220.12(c) may not be exceeded.

(5) The county program PTRC may conduct a review or audit of pharmacies participating in the Mental Health/Intellectual Disability (MH/ID) drug program to ensure that charges made by the pharmacy to the county program are the usual and customary charges of the pharmacy to the general public.

(6) Where any of the cost control measures under this subsection are enacted, the county administrator must make provision for appeals by prescribers, pharmacies or providers on a "special case" basis.

(7) Cost control measures enacted by county programs under this subsection are subject to review and approval by the Department.

CHAPTER 4230. WAIVER OF SERVICE

GENERAL PROVISIONS

§ 4230.1. Purpose.

This chapter defines the process for requesting a waiver of the duty to provide mental health and intellectual disability mandated services. Section 301(d) of the Mental Health and Intellectual Disability Act of 1966 (50 P.S. § 4301(d)) requires county mental health and intellectual disability programs to provide the following nine mandated services:

(1) Short-term inpatient services.

(2) Outpatient services.

(3) Partial hospitalization services.

(4) Emergency services.

(5) Consultation and education.

(6) Aftercare services.

(7) Rehabilitative and training services.

(8) Interim care of individuals with an intellectual disability.

(9) Unified intake.

§ 4230.2. Applicability.

This chapter applies to county mental health and intellectual disability programs.

§ 4230.3. Legal base.

The legal authority for this chapter is sections 201(2) and 508 of the Mental Health and Intellectual Disability Act of 1966 (50 P.S. §§ 4201(2) and 4508).

WAIVER OF SERVICE

§ 4230.11. Requesting waivers.

(a) A county mental health and intellectual disability program is permitted to request a waiver of one or more of the nine mandated services if the service is not available or if the county mental health and intellectual disability program shows that it is economically unsound to provide the service.

(b) A request for waiver shall be to waive the provision of an entire service. Waivers may not be requested for a reduction in the level of service.

(c) Waivers shall be requested for a period of one fiscal year or less.

(d) A request for waiver for the next fiscal year shall be submitted to the Department between April 15 and May 15 of the current fiscal year.

(e) Waivers may not be requested for the current fiscal year.

§ 4230.12. Documentation.

(a) The county mental health and intellectual disability program shall submit a written request for waiver to the Secretary of the Department of Human Services, with a copy of the request for waiver to the Deputy Secretary, Office of Developmental Programs and the Deputy Secretary, Office of Mental Health and Substance Abuse Services.

(b) A request for waiver shall include the following:

(1) The service for which the waiver is requested.

(2) The fiscal year for which the waiver is requested.

(3) Justification for the waiver.

(4) The total expenditure by the county mental health and intellectual disability program for the service in the previous and current fiscal years.

(5) Clients and units of service for the previous and current fiscal years.

§ 4230.14. Hearing.

(a) The Department will hold a hearing in the county requesting the waiver by June 15 of the year in which the waiver request was made.

(b) The county mental health and intellectual disability program shall arrange a location for the hearing.

(c) The county mental health and intellectual disability program shall inform the public of the date, time, location and purpose of the hearing.

(d) The county mental health and intellectual disability program shall present the request for waiver and justification for the waiver at the hearing.

§ 4230.15. Waiver decision.

The Department will provide a written waiver decision to the county mental health and intellectual disability program by June 30 of the year in which the waiver request was made.

§ 4230.16. Provision for mandated service.

(a) If the waiver is granted, the county mental health and intellectual disability program is not required to provide the mandated service for the fiscal year for which the waiver was granted.

(b) If a waiver is granted and the Department decides to provide the service according to section 508(b) of the Mental Health and Intellectual Disability Act of 1966 (50 P.S. § 4508(b)), the county mental health and intellectual disability program is liable for the total county share for the service waived, under section 508(c) of the Mental Health and Intellectual Disability Act of 1966. The county's mental health and intellectual disability allocation

shall be reduced by the total State amount expended in the fiscal year immediately preceding the fiscal year of the waiver, for the service waived. The actual amount reduced from the county's mental health and intellectual disability allocation is deducted in the year of the waiver.

(c) If a waiver is granted, and the Department decides not to provide the service according to section 508(b) of the Mental Health and Intellectual Disability Act of 1966, the county mental health and intellectual disability allocation shall be reduced by the total State amount expended in the fiscal year immediately preceding the fiscal year of the waiver, for the service waived. The actual amount reduced from the county's mental health and intellectual disability allocation is deducted in the year of the waiver.

(d) If the waiver is denied, the county mental health and intellectual disability program shall provide the service for which the waiver was requested.

§ 4230.17. Right to appeal.

The county mental health and intellectual disability program has the right to appeal the Department's decision under 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law). Appeals shall be submitted within 15 days of receipt of the Department's waiver decision to the Department's Hearing and Appeals Unit, according to the appeal procedures in 1 Pa. Code Part II (relating to General Rules of Administratative Practice and Procedure).

CHAPTER 4300. COUNTY MENTAL HEALTH AND INTELLECTUAL DISABILITY FISCAL MANUAL

GENERAL PROVISIONS

§ 4300.1. Purpose.

This chapter specifies the fiscal requirements for county mental health and intellectual disability programs.

§ 4300.2. Applicability.

This chapter applies to county mental health and intellectual disability programs. County mental health and intellectual disability programs shall use this chapter to reimburse providers of service.

§ 4300.3. Legal base.

The legal authority for this chapter is section 201(2) of the Mental Health and Intellectual Disability Act of 1966 (50 P.S. § 4201(2)).

§ 4300.4. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The Mental Health and Intellectual Disability Act of 1966 (50 P.S. §§ 4101—4704).

County—A county or a first class city.

County authority—The county official responsible for certain functions related to the administration of the county program. The responsibility and authority may be established by statute or the delegation of duties by the county commissioners, county executive, county councils or the city councils of first class cities, or two or more of these acting in concert.

County program—A mental health and intellectual disability program established by a county, or two or more counties acting in concert. The term includes a program which contains a variety of services and provides a continuum of care in the community for individuals with a mental disability.

Department—The Department of Human Services of the Commonwealth.

Direct costs—Costs that can be identified and immediately charged to a specific cost or service category.

Expensing—Payment for an item in full at the time of acquisition or within the fiscal period in which it was acquired.

Facility—An establishment, hospital, clinic, institution, center, day care center or other organizational unit, or part thereof, which is devoted primarily to the diagnosis and treatment of individuals with a mental disability.

Fixed assets—Major items, excluding real estate, which can be expected to have a useful life of more than 1 year, or which can be used repeatedly without materially changing or impairing their physical condition by normal repair, maintenance or replacement of components with a purchase price of $500 or more.

Indirect costs—Costs incurred for a common or joint purpose and not readily assignable to a specific cost or service category.

Joinder—Two or more counties acting in concert to establish a county program.

Modified Classification Review (MCR)—A personnel classification system whereby the county authority has the authority to crosswalk positions in contracted agencies into a structure of categorical position definitions developed by the Department.

Mortgaged real estate—A conveyance of real property subject to certain financial conditions or obligations which are satisfied by payment according to stipulated terms. The conveyance of real property through bonded indebtedness shall be considered as mortgaged real estate.

New program—A program initiated and approved by the Department that is not a mandated service identified in section 301 of the act (50 P.S. § 4301).

Personnel Action Plan (PAP)—A personnel classification system whereby the county authority has the authority to crosswalk positions in contracted agencies into a structure of categorical positions developed by the county within a broad structure developed by the Department.

Prevailing county practice for agencies funded by multiple counties—Policies agreed upon by the involved county programs, when two or more county programs fund an agency.

Prevailing county practice for joinders—A policy agreed upon by the counties in the joinder.

Related party—A party who meets the tests of common ownership or control.

Secretary—The Secretary of the Department.

DEPARTMENT GRANTS AND PAYMENTS

§ 4300.21. Departmental powers.

The Department has the power to make grants, pay subsidies, purchase service and provide reimbursement for mental health and intellectual disability services under the act.

§ 4300.22. Departmental financial participation.

A service shall qualify for Departmental financial participation if it is authorized by the act and is specifically provided for in this chapter or approved by the Depart-

ment in advance of its incorporation in the county plan as training, research, or another service or program designed to prevent mental disability or the necessity of admitting or committing the individual with a mental disability to a facility.

§ 4300.23. Percentage of expenditures reimbursable.

(a) Subject to the appropriation of funds and under the act and this chapter, the Department will participate at 100% of the approved expenditures for the following:

(1) Diagnosis, evaluation and care in Commonwealth-operated facilities, or in a facility with which the Commonwealth may contract.

(2) Payments for inpatient care and partial hospitalization for persons financially ineligible for care under public assistance law.

(3) Licensed community residential programs for individuals with an intellectual disability.

(4) Other obligations that may arise under a new program established by the Department.

(b) The Department will participate at 90% of the approved expenditures for other services or activities qualifying for financial support under the county program. The remaining 10% is the county obligation or the local match of the county program.

§ 4300.25. Direct provision of services.

Direct provision of services is the provision of mental health and intellectual disability services by county employees under the supervision of the county authority. Costs associated with the direct provision of services, subject to the limitations contained in this chapter, are eligible for Departmental participation.

§ 4300.26. Unit of service funding.

Unit of service funding is the procedure used to fund facilities based on a charge per unit of service. Unit of service funding applies to facilities which are administered separately from the county or county joinder and which receive reimbursement by a contracted per diem or fee rate. Funding is based on a charge per service.

(1) The following services shall be purchased only by the unit of service:

(i) Inpatient care.

(ii) Partial hospitalization.

(iii) Laboratory services.

(iv) Drugs.

(v) Respite care.

(vi) Interim care.

(vii) Services where the provision of the service is not limited to individuals with a mental disability, such as a workshop service or day care.

(2) An exception to paragraph (1) will be allowed when a regional mental health official authorizes, in writing, the initiation of a new partial hospitalization program and determines that it is necessary to expend funds to staff and equip the program prior to providing services to clients. The Department will then authorize program-funding of this particular partial hospitalization program for a period not to exceed 1 year from the initial date of funding.

(3) Domiciliary care placement agencies shall be funded only by unit of service funding after the initial year of operation. During the initial full year of operation, domiciliary care may be purchased by unit of service funding or program-funding.

(4) During the first year, the county or county joinder may program-fund a share of the cost of operating the domiciliary care placement agency. After the first year, these services shall be purchased on a unit of service basis. Payment may be made either by cash or inkind contribution.

COUNTY AND COUNTY JOINDER ALLOWABLE COST STANDARDS

§ 4300.45. Staff development.

(a) Staff development includes the training of personnel through inservice instruction and recognized professional education programs, or through attendance at State, regional and National meetings, seminars or conferences.

(b) The Department will participate in the cost of training of staff to the extent that the training is related to the objectives of the county program or is essential for the continuation or improvement of the program.

(c) Training for staff shall be in or directly related to the fields of mental health and intellectual disability, or the administration of these programs.

(d) Expenses for staff development shall be approved by the appropriate county authority or a designee.

§ 4300.46. Purchased personnel services.

(a) Purchased personnel services are allowable expenses for justifiable programmatic or administrative reasons. A written agreement shall state the services to be provided, the rate of compensation and the method of payment. Consultant fees shall be determined in accordance with prevailing county practice. Participation in the cost for fees and expenses of professional practitioners and consultants, who are board members, directors, commissioners, county elected officials or regular employees requires the prior approval of the Department.

(b) County employees may not receive remuneration for acting as consultants or in another capacity to facilities with which the county/joinder contracts for mental health and intellectual disability services, or with Commonwealth agencies.

§ 4300.48. Occupancy.

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(d) Mortgaged real estate which is owned and utilized by a county/joinder may be charged to the Department, except that no charge may be made for the refinancing of buildings unless a lower interest rate is available. The original amortization period may not be extended. Departmental participation is limited to the mortgaged cost associated with acquisition or renovation/improvement/repair/maintenance, or both, of property. The amount of these charges shall be the lesser of the fair rental value of the space and use, or the actual cost of the principal and interest incurred in the mortgage amortization, including any amortized minor or major renovation/improvement/repair/maintenance costs. The amount charged shall be prorated in relation to the percentage of space used by the program.

(1) The Department will participate in closing costs and downpayments required by lending institutions for the acquisition of real estate to be used for the county mental health and intellectual disability program. The Department will participate in a downpayment not to

exceed 25% of the property value. Real estate purchased with a downpayment reimbursed by the Department shall be used in the county program for at least 5 years.

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§ 4300.56. Library expenses.

The Department will participate in the purchase of books, documents and subscriptions to journals pertaining to mental health, intellectual disability and other relevant topics.

§ 4300.63. Commitment procedures.

(a) The Department will participate in costs incurred by counties for the commitment of individuals under the Mental Health Procedures Act (50 P.S. §§ 7101—7503) and intellectual disability commitments under the act.

(b) The following costs are allowable:

(1) Mental health review officer time and related costs.

(2) Attorney for the county mental health and intellectual disability program or the facility.

(3) Examination and expert medical testimony by the examining physician.

(4) Cost of client transportation to or from hearing.

(5) Client's expert witness as provided under section 304(d) of the Mental Health Procedures Act (50 P.S. § 7304(d)).

(6) Commitment delegate expenses.

(c) The following costs are not allowable:

(1) Court costs or fees.

(2) Court clerical costs.

(3) Transcription costs.

(4) Client's attorney.

(5) Court reporter.

(6) Attorney for the petitioner when the petitioner is not the county administrator.

(7) Fees for testimony by witnesses other than expert medical and client's expert witnesses.

§ 4300.68. Title to fixed assets.

(a) Title to fixed assets, excluding real estate, acquired with mental health and intellectual disability funds shall remain with the county/joinder.

(b) Income received by the county program when disposing of fixed assets obtained with mental health and intellectual disability funds shall be used to reduce gross expenditures submitted by the county program for Departmental participation. The county may reimburse the Department in direct proportion to the Department's participation in the purchase of the fixed assets—either 90% or 100%.

(c) Fixed assets acquired with mental health and intellectual disability funds shall be solely for the benefit of the mental health and intellectual disability program. If fixed assets are transferred from the mental health and intellectual disability program, the county/joinder shall reimburse the Department for its percentage of the remaining value of the equipment based on an independent appraisal of the value of the fixed assets. The county program may not transfer fixed assets purchased with categorical funding to another component of the county program without the prior written approval of the appropriate program deputy secretary.

CONTRACTED AGENCY ALLOWABLE COST STANDARDS

§ 4300.83. Compensation.

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(c) The Department will participate in the costs of compensation for employees of agencies funded on a unit of service basis. The Department will participate in compensation for the chief executive officers of these agencies up to the combined salaries and benefits approved for these positions. A chief executive officer reimbursement grid methodology will be used to determine eligible salaries. It classifies agencies according to total expenditures, and as multiple or single service providers. Multiple service providers are those providers for which counties reported expenditures of at least $100,000 in at least two cost centers. Single service providers are those providers for which counties reported expenditures of at least $100,000 in a single cost center. Total provider expenditures and expenditures by cost center will be based on annual county program income and expenditure reports submitted by counties under § 4300.133 (relating to financial reporting requirements) and the cost reports submitted to the Department by intermediate care facilities for individuals with an intellectual disability. The Department will entertain waiver requests submitted under § 4300.11 (relating to waivers) to include other expenditures, not normally reported to the Department, for classifying agencies.

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§ 4300.86. Staff development.

(a) The Department will participate in the cost of training of staff to the extent that the training is essential for the continuation or improvement of the program.

(b) Training for staff shall be in or directly related to the fields of mental health and intellectual disability, or the administration of these programs.

§ 4300.94. Agency indirect costs.

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(g) To be allowable for Departmental participation, indirect costs shall meet the following criteria:

(1) Be necessary and reasonable for the proper and efficient operation and administration of the contract.

(2) Be authorized under statutes and regulations.

(3) Conform to limitations, exclusions or allowable cost standards for items of expenditure as included in this chapter if more than 50% of the agency's indirect costs are allocated to mental health or intellectual disability programs, or both, funded by a county/joinder or a combination of Commonwealth counties/joinders.

(4) Be accorded consistent treatment as either a direct or indirect cost.

§ 4300.95. Library expenses.

The Department will participate in the purchase of books, documents and subscriptions to journals pertaining to mental health, intellectual disability and other relevant topics.

§ 4300.106. Title to fixed assets.

(a) Title to fixed assets which are depreciated under § 4300.105 (relating to depreciation allowances) shall remain with the contracted agency.

(b) Title to fixed assets which are expensed or loans amortized using county mental health and mental retardation funds shall remain with the county/joinder or the provider.

(c) If title remains with the county/joinder, contracted agencies may not sell, leave, donate or dispose of county fixed assets without written permission from the appropriate county authority. Upon termination or cancellation of the contract and within a fixed period determined in that contract, the county shall at its discretion:

(1) Retain possession for county use or permit the use of fixed assets by another provider of services.

(2) Dispose of fixed assets purchased with mental health and intellectual disability funds upon obtaining an independent appraisal of the fixed assets.

(3) Allow the contracted agency to purchase the fixed assets upon obtaining an independent appraisal of the fixed assets.

(d) If title remains with the provider under subsection (b), the fixed asset shall be made available by the provider for use in the county program for its useful life. If the provider holds title to the asset, the provider may pledge the asset as collateral for loans necessary to the agency.

(e) Income received when disposing of fixed assets, or received by the county in refunds from agencies, shall be used to reduce gross eligible expenditures in determining the amount eligible for Departmental participation.

UNIT OF SERVICE FUNDING

§ 4300.117. Computation of reimbursement.

(a) The Department will participate in the cost of reimbursement to unit of service providers when computed according to the following procedure.

(b) The potential reimbursement by the county is computed as follows:

(1) Multiply each unit of service provided during a given month to a client by one of the following:

(i) The county program rate of reimbursement for that service if the provider's client fee schedule rate—as defined in § 4305.3 (relating to definitions)—for that service is equal to or exceeds the county program rate of reimbursement.

(ii) The provider's client fee schedule rate for that service, if the provider's client fee schedule rate is less than the county program rate of reimbursement for the same service.

(2) Total the products found under paragraph (1). This sum is the potential reimbursement by the county.

(3) If the sum of the net charge to the liable person—as defined in § 4305.3—and the net charge to a third party—as defined in § 4305.3—is less than the potential reimbursement by the county, the Department will participate in reimbursing the provider for the difference between the potential reimbursement by the county and the sum of the net charge to the liable person and the net charge to a third party.

(4) If the sum of the net charge to the liable person and the net charge to a third party is greater than or equal to the potential reimbursement by the county, the Department will not participate in reimbursement to the provider.

(5) If collection has been pursued according to Chapter 4305 (relating to liability for community mental health and intellectual disability services), the Department will participate in reimbursement to a provider of the uncollectable net charge to the liable person or the uncollectable net charge to a third party up to the potential reimbursement by the county.

§ 4300.118. Special limitations on unit of service funding.

(a) Costs of partial hospitalization services provided under this title shall be limited to 240 3-hour sessions (720 total hours) in a consecutive 365-day period per patient. Six hours of partial hospitalization equals 1 day of partial hospitalization.

(b) A benefit period begins with the first day of inpatient hospital care and includes a maximum of 60 days of care in one consecutive stay or in a number of lesser stays that add up to 60 days. If the Department pays for part of a day, the day shall be counted as a full day in the benefit period. A patient's benefit period ends after 60 consecutive days on which he is not hospitalized, regardless of the number of days of hospitalization he has had. After one benefit period ends, a new benefit period begins with the first day of hospitalization and is subject to appropriate utilization review standards.

(c) The payment for hospital visits by a psychiatrist, when the fee is not included in the inpatient rate, shall be allowed.

(d) The Department will participate in the cost of drugs according to Chapter 4220 (relating to reimbursement for medications).

(e) Charges to clients of the county program shall be in accordance with Chapter 4305 (relating to liability for community mental health and intellectual disability services). A facility may not seek reimbursement from a client of the county program above that provided for under this title.

(f) The Department of Labor and Industry, Office of Vocational Rehabilitation, establishes fees for selected vocational program services. The Department will financially participate in the costs of county programs purchasing these same services at the established fees.

FISCAL MANAGEMENT OF THE COUNTY PROGRAM

§ 4300.132. Accountability for expenditures of mental health and intellectual disability funds for clients.

(a) The appropriate county authority is responsible for the accounting of funds expended through the county program, and the authorization of expenditures consistent with this chapter. Service provided without proper authorization or accountability, or both, may not be considered as reimbursable. Services purchased on a fee per unit of service basis shall have prior authorization of the administrator or designee.

(b) The county program and providers with whom the county contracts for services shall maintain books, records, documents and other evidence according to standard accounting procedures and practices, sufficient to reflect properly direct and indirect costs claimed to have been incurred and anticipated to be incurred for funds supported by the act and for which reimbursement is claimed. Records shall be kept for a minimum of 4 years after the close of the fiscal year.

(c) Time and attendance and payroll distribution records shall be maintained for each employee. Any method of keeping the records is acceptable as long as it is complete and accurate.

§ 4300.134. Apportionment of administrator's office costs.

The costs of the administrator's office as defined in this chapter are funded from both mental health and intellectual disability allocations. Two alternatives are available for apportioning these costs. The costs of the administrator's office may be apportioned according to the actual cost incurred for the administration of each program or as a proportion of program costs. Documentation supporting the apportionment of these costs shall be retained by the county program.

§ 4300.135. Actual costs.

The intention of this method is to determine and assign the actual costs related to the provision of mental health or intellectual disability services. Once a county program has developed and implemented a methodology for apportionment based on actual costs, it may not assign costs according to a proportion of program costs methodology. Costs shall be assigned as follows:

(1) Costs which can be readily identified as mental health or intellectual disability shall be appropriately assigned.

(2) Time records or a random time study shall be used to apportion individual staff salaries, benefits, and operating and fixed asset expenses related to staff. Time which cannot be assigned, not to exceed 25% of available time, can be ignored in developing an apportionment ratio.

(3) Other costs shall be apportioned based on the overall ratio resulting from the assignment of costs in paragraphs (1) and (2).

§ 4300.136. Proportion of program costs.

The Department's grants to county programs include base allocations, categorical allocations and allocations of Federal funds. The ratios of the mental health and intellectual disability allocations to the total allocation received from the Department shall be used to assign the costs of the administrator's office when using this method.

§ 4300.137. County joinder contracts.

When a mental health and intellectual disability program is administered by two or more counties, the local authorities acting in concert shall enter into a contract to establish the policies of that program.

(1) The contract shall provide for proportionate costs of the program to be borne by each participating county.

(2) A separate bank account shall be established into which funds received from the Department and from the participating counties for the purposes of the program shall be paid and out of which payments for the program shall be made.

(3) The contract shall designate the person authorized to sign checks, indicate services and facility operation to be administered jointly and address other matters necessary or proper for the accomplishment of program objectives.

(4) The contract shall include a description of policies agreed to by the counties as prevailing county practice for the mental health and intellectual disability program. These include the policies of leave, travel, recruitment and consultant fees.

(5) Contracts shall be reviewed at least once every 10 years.

§ 4300.139. Contracting requirements.

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(c) A signed contract becomes the authorization for the expenditure of funds for services identified by the agreement. County mental health and intellectual disability funds cannot be expended for provider expenses until a contract exists. For licensed inpatient and authorized partial hospital providers, an authorization for service form may be used, in lieu of a contract, to purchase services.

(d) Counties shall establish a procedure to provide contract agencies with an opportunity to be heard by the county mental health and intellectual disability board, or a committee thereof, regarding contract disputes arising under this chapter. The purpose shall be for the board to hear the issues and arguments involved in the dispute and develop recommendations to the appropriate county authority.

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§ 4300.148. Uncollected revenue.

Income referred to as accounts receivable may be adjusted for uncollected revenues when a request for abatement or write-off has been approved under Chapter 4305 (relating to liability for community mental health and intellectual disability services).

§ 4300.155. Categorical funding.

(a) Categorical funding is the identification of a certain dollar amount in a county mental health and intellectual disability allocation to be used for a specific component of the county program. The funding may occur as the result of an authorization by the Secretary. The funds shall be considered restricted and available for the stated purpose only. This also applies to the base program allocation as a whole.

(b) Unexpended categorical funds may not be used to offset a deficit incurred in the base program or another categorical program unless approved by the Secretary.

(c) Unexpended categorical funds are carried over into the next fiscal year and considered by the Department in the computation of the allocation for the next fiscal year.

§ 4300.158. Revenue.

(a) Allocations from the Department are to defray part of the cost of county programs authorized by the act and approved by the Department. Income from the amounts paid for the same purpose from a public or private source directly to participating counties, facilities or individuals shall be deducted from approved expenditures to determine the amount eligible for Departmental participation.

(b) The Department will not participate in costs for a mentally disabled person until the person, who has been admitted or committed, or is receiving services or benefits under the act, has exhausted his eligibility and receipt of benefits under other private, public, local, Commonwealth or Federal programs.

(c) Unrestricted donations and gifts shall be considered as income to reduce gross eligible expenditures in arriving at expenditures eligible for Departmental participation. Since donations and gifts are a revenue of the county or contracted agency, they are available for use by the county or contracted agency to increase the level of eligible expenditures.

(d) Donations and gifts may be used for paying expenses which are eligible or ineligible for Departmental participation if given or restricted by the donor for that

purpose. This includes income from fund-raising activities which publicly identify the purpose for which contributions are solicited and their restricted use.

(e) Donations and gifts from fund-raising organizations may be used for paying expenses which are eligible or ineligible for Departmental participation if given or restricted by the fund-raising organization for that purpose. A fund-raising organization shall be separate from the contract agency in that it is not involved in the delivery of service and is not funded directly or indirectly by Department grants.

(f) Interest earned on Departmental funds shall be considered as other income to reduce total expenditures in arriving at eligible expenditures for Departmental participation. Since interest is considered a legitimate revenue of the county program, it is available for use by the program to increase the level of service provided. Interest may not be used to offset the county's 10% matching share, to fund nonmental health/intellectual disability services, or to fund general county expenses not properly apportioned to the mental health/intellectual disability program.

§ 4300.159. Restricted receipt account.

The funds for the county mental health/intellectual disability program shall be used for this specific purpose and accounted for separately from other monies. This may be accomplished by maintaining separate bank accounts or by fund accounting. Monies may be combined if the following exist:

(1) Clear audit trails are established.

(2) Earnings for each account are individually computed, credited and recorded.

(3) Receipts, disbursements and transfers are processed through separate accounts.

(4) The general principles of fund accounting are observed.

§ 4300.161. Contracted agency audits.

(a) The audits performed on contracted agencies shall contribute to the county audit. The county may require the agency to retain an independent certified/registered public accountant to perform the audit, contract for an independent certified/registered public accountant directly to perform the audit, perform the audit using qualified county auditors who meet the independence requirements and professional standards in the "Standards for Audit of Governmental Organizations, Programs, Activities and Functions" promulgated by the Comptroller General of the United States, General Accounting Office. Under generally accepted auditing standards, contracted agency audits will be evaluated for the rendering of an opinion on total county funding.

(b) The purpose of the provider audit is to ensure that reimbursement is based on the reasonable costs of contracted services, to provide verified financial information for making a final determination of allowable costs, and to develop other information as counties/joinders may need to fulfill their responsibilities. It shall include an examination of financial transactions, accounts and reports, an evaluation of the adequacy of accounting and administrative controls and an evaluation of compliance with provisions of the contract, including applicable statutes and regulations. It shall be of sufficient depth and detail for the auditor to render an opinion that invoicing is based upon the terms and conditions negotiated by the county/joinder and provider in developing the contract budget or unit costs, or both.

(c) This chapter may not be construed to limit the authority of the Department, the Department's Comptroller's Office, the Auditor General, Federal auditors or other authorized agencies to perform audits of contracted agencies. The county or its agents shall have access to and the right to examine records of contracted agencies involving transactions related to mental health and intellectual disability funding.

CHAPTER 4305. LIABILITY FOR COMMUNITY MENTAL HEALTH AND INTELLECTUAL DISABILITY SERVICES

GENERAL PROVISIONS

§ 4305.1. General.

One of the primary goals of the public mental health and intellectual disability program is to provide easy access to treatment or habilitation services and to encourage people to seek help.

§ 4305.2. Purpose.

The purpose of this chapter is to specify the liability and describe the procedures for establishing and collecting liability for clients receiving community mental health or intellectual disability services funded in whole or in part through the county mental health and intellectual disability program.

§ 4305.3. Applicability.

(a) This chapter applies to county mental health and intellectual disability programs.

(b) This chapter does not apply to a client who is receiving services covered by Medical Assistance under the Commonwealth's Medical Assistance Program.

§ 4305.4. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Base service unit—The functional unit responsible for assessing and evaluating client needs, planning comprehensive treatment programs and making available the necessary services on a continuing basis.

County administrator—The administrator of the county mental health and intellectual disability program, or a designee.

Intellectual disability professional—A case manager or an individual who is responsible for the clinical treatment program for the client.

Liability—The maximum monthly amount the liable person is charged toward the cost of service for the client. The term does not include the cost of the client's room or board.

Liable person—The person responsible for payment of the liability. The term includes the following persons:

(i) If the client is 18 years of age or older, the client is not married and the client does not have a legal guardian of estate or a representative payee, the client is the liable person.

(ii) If the client is married, and the client does not have a legal guardian of estate or a representative payee, the client and the client's spouse are the liable persons.

(iii) If the client is under 18 years of age, the client is not married, the client is not an emancipated minor and

the client does not have a legal guardian of estate or a representative payee, both of the client's parents are the liable persons.

(iv) If the client is under 18 years of age, the client is not married, the client is an emancipated minor and the client does not have a legal guardian of estate or a representative payee, the client is the liable person.

(v) If the client has a legal guardian of estate or a representative payee, the legal guardian of estate or the representative payee is the liable person.

Mental health client fee schedule—A list of the provider's usual and customary charges to the general public for a unit of service.

Mental health professional—An individual practicing in a generally recognized clinical discipline including, but not limited to, psychiatry, social work, psychology, nursing, rehabilitation or activity therapies, who has a graduate degree and clinical experience.

Net charge—The amount the provider bills for services provided.

Outpatient unit of service—One-half hour of treatment in a licensed mental health outpatient clinic/program.

Parent—A biological or adoptive mother or father of the client.

Partial hospitalization unit of service—Three hours per day of treatment in a licensed mental health partial hospitalization program.

Representative payee—A person or an organization selected by a benefit issuing agency to receive and manage benefits on behalf of a beneficiary.

§ 4305.5. Legal base.

The legal authority for this chapter is sections 201(2) and 504(d) of the Mental Health and Intellectual Disability Act of 1966 (50 P.S. §§ 4201(2) and 4504(d)).

GENERAL REQUIREMENTS

§ 4305.11. Exempt services.

The following mental health and intellectual disability community services are exempt from liability requirements specified in the chapter:

(1) Vocational, as defined in Chapter 2390 (relating to vocational facilities).

(2) Early intervention, as defined in Chapter 4226 (relating to early intervention services).

(3) Adult day care, as defined in Chapter 2380 (relating to adult training facilities).

(4) Respite care, as defined in Chapters 6350 and 6400 (relating to family resource services; and community homes for individuals with an intellectual disability).

(5) Family aid services, as defined in Chapter 6350.

(6) In-home therapy, as defined in Chapter 6350.

(7) Homemaker services, as defined in Chapter 6350.

(8) Family education and training, as defined in Chapter 6350.

(9) Recreation/leisure activities, as defined in Chapter 6350.

(10) Specialized vocational training services that are outside the scope of Chapter 2390.

(11) Other intellectual disability family support services including and limited to sitter and companionship services, parent and family training, speech therapy, aural rehabilitation, hearing aid evaluations, dactylogic therapy, physical therapy, occupational therapy, mobility training, behavioral programming, adaptive appliances, special diets and home rehabilitation.

§ 4305.13. Nonexempt service.

Liability requirements specified in this chapter apply to a mental health and intellectual disability community service not listed in § 4305.11 (relating to exempt services).

§ 4305.15. Delegation of authority.

(a) The county administrator has the authority to delegate the functions required in this chapter to base service units or providers of community mental health and intellectual disability services, except for the functions of adjusting liability amounts specified in §§ 4305.61—4305.69 (relating to adjustment of liability) and write-off of past due accounts specified in §§ 4305.91—4305.94 (relating to write-off of past due account).

(b) If functions required in this chapter are delegated to providers of community mental health and intellectual disability services, the county administrator shall retain responsibility for compliance with the requirements of this chapter.

§ 4305.17. Eligibility of expenditures.

Expenditures by a county mental health and intellectual disability program on behalf of a client are eligible for reimbursement by the Department only if a liability has been billed and collection has been pursued according to the requirements specified in this chapter.

§ 4305.21. Contributions.

Contributions made to the county mental health and intellectual disability program or the provider by charitable organizations, friends or neighbors on behalf of the client toward the cost of care shall be treated as payment by the liable person. Contributions may not be counted as income to the client as part of the total family income.

DETERMINATION OF LIABILITY

§ 4305.31. Determinations.

(a) The county administrator shall determine a liability for clients receiving a community mental health or intellectual disability service funded in whole or in part through the county mental health or intellectual disability program that is not listed as an exempt service in § 4305.11 (relating to exempt services).

(b) The liability shall be determined prior to client referral to or placement into community mental health and intellectual disability services, except for emergency referrals or placements in which the liability shall be determined within 15 days after emergency referral or placement.

§ 4305.33. Income to be considered.

(a) If the client is 18 years of age or older and the client is not married, the client's income alone shall be considered the total family income.

(b) If the client is married, the client's income and the client's spouse's income shall be combined to determine the total family income.

(c) If the client is under 18 years of age, the client is not married, and the client is not an emancipated minor, the client's income that is in excess of the Internal

Revenue Service tax threshold, and both parents' income shall be combined to determine the total family income.

(d) If the client is under 18 years of age, the client is not married, and the client is an emancipated minor, the client's income alone shall be considered the total family income.

(e) If the parents of an unmarried, nonemancipated client under 18 years of age are separated or divorced and have a legally binding financial agreement, the parents are individually financially responsible in accordance with the terms of that financial agreement. If the client earns more than the Internal Revenue Service tax threshold, the client's income that is in excess of the Internal Revenue Service tax threshold shall be included in the total family income of the parent who has legal custody of the client. If there is joint custody, the client's income that is in excess of the Internal Revenue Service tax threshold shall be divided equally and included in the total family income of both parents.

(f) If the parents of an unmarried, nonemancipated client under 18 years of age are separated or divorced and there is no legally binding financial agreement, a separate total family income shall be determined for each parent. If the client earns more than the Internal Revenue Service tax threshold, the client's income that is in excess of the Internal Revenue Service tax threshold shall be included in the total family income of the parent who has legal custody of the client. If there is joint custody, the client's income that is in excess of the Internal Revenue Service tax threshold shall be divided equally and included in the total family income of both parents.

(g) Parents who adopt children under the Pennsylvania Adoption Assistance program, § 3140.207 (relating to entitlement to other services and benefits), have no liability for mental health and intellectual disability services. The child shall be considered a family of one and liability shall be determined based on the income of the child.

§ 4305.42. More than one client receiving service.

(a) If more than one client in the family is receiving services, only one liability shall be determined and billed.

(b) If at least one client in the family is receiving community mental health or intellectual disability residential services or short-term inpatient services, the liability shall be the amount listed in Appendix B.

(c) If clients in the family are receiving only community mental health or intellectual disability nonresidential services, the liability shall be the amount listed in Appendix A.

§ 4305.43. Client receiving more than one service.

(a) If services received by the client in a calendar month are community mental health and intellectual disability nonresidential services or noninpatient services, the liability shall be the amount listed in Appendix A.

(b) If services received by the client in a calendar month are community mental health and intellectual disability residential services or short-term inpatient services, even if community mental health and intellectual disability nonresidential services or short-term inpatient services are also provided, the liability shall be the amount listed in Appendix B.

BILLING FOR LIABILITY

§ 4305.51. Billing.

(a) The county administrator shall bill the liable person each month that community mental health and intellectual disability services are received.

(b) If the liability exceeds the actual cost of intellectual disability services or the net charge for mental health services received for a month, the county administrator shall bill the liable person for the actual cost of intellectual disability services or the net charge for mental health services received.

§ 4305.52. Insurance.

(a) If a client is receiving or is expected to receive a community mental health or intellectual disability service, or both, that is eligible for insurance, the county administrator or the provider of service shall bill the insurance company for the service prior to billing the liable person. The amount received from the insurance company for services provided over a calendar month shall be deducted from the liability for intellectual disability services or the client fee schedule per unit times the number of units delivered that month for mental health services. The liable person shall be billed the remainder up to the liability.

(b) If insurance benefits are not assignable, the provider shall bill the liable person for the total amount of the liability or the amount the insurance company will pay, whichever is greater, and shall assist the person in completing the insurance forms if necessary or requested.

ADJUSTMENT OF LIABILITY

§ 4305.61. Request for adjustment of liability.

(a) The liable person has the right to request adjustment of liability.

(b) Requests for adjustment of liability shall be made within 30 calendar days of the time that conditions warranting the adjustment occur.

(c) Requests for adjustment of liability shall be made by the liable person, the client, or the mental health or intellectual disability professional.

(d) Requests for adjustment of liability shall be submitted to the county administrator on a form prescribed by the Department.

§ 4305.66. Reason for adjustment of liability—nullify result of care.

(a) The county administrator shall have the power to reduce or eliminate the liability if the imposition of the liability would create a financial burden upon the client as to nullify the results of care, treatment, service or other benefits.

(b) Requests for an adjustment of the liability due to nullification of the result of care shall include documentation by a mental health/intellectual disability professional justifying the clinical reasons for the request and how the client's welfare would be seriously harmed if the liability is not adjusted.

APPENDIX A

Monthly Liability for Community Mental Health and Intellectual Disability Nonresidential Services

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APPENDIX B

Monthly Liability for Community Mental Health and Intellectual Disability Residential and Short-Term Inpatient Services

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CHAPTER 4310. CLIENT LIABILITY—STATE MH/ID FACILITIES

GENERAL PROVISIONS

§ 4310.1. Legal base.

The legal base for this chapter is sections 201(2) and 504(d) of the Mental Health and Intellectual Disability Act of 1966 (50 P.S. §§ 4201(2) and 4504(d)).

§ 4310.3. Applicability.

This chapter applies to State mental hospitals and State intellectual disability centers. Liability for services received at these facilities is determined according to this chapter.

§ 4310.4. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Abatement—The reduction by the Department of an assessed liability amount to zero for a specified period.

Assets—Any resource available to the client to meet the cost of services, except real estate constituting the home residence of the client, his spouse or dependent children.

Benefit—A payment or other assistance given by an insurance company, mutual retirement fund, or public or private agency.

Benefit recipient—A client receiving income in the form of a benefit for which no services have been rendered.

Client—A patient/resident of a State mental hospital or State intellectual disability center.

Department—The Department of Human Services of this Commonwealth.

Head of household—The adult member of the household who is recognized by other family members as the primary household representative.

Home maintenance exemption—Documented and verified expenses currently being paid and necessary to maintain a home or rental residence, which includes mortgage or rental payments, utility bills and taxes on the home residence during the period of hospitalization.

Household—A group of persons living together, consisting of the head of household and all other household members for whom the head of household has a legal responsibility to provide support.

Household member—A person, including the head of household, for whom the head of household is liable.

IRS tax form—The forms filed by the household for Federal income tax purposes—most commonly Forms 1040 and 1040A.

Institutional collections officer—The Department's employee responsible for applying for all resources available to meet the costs of services and establishing client and legally liable relative liability.

Intellectual disability professional—A case manager or an individual who is responsible for the clinical treatment program of the resident.

LLR—Legally liable relative—A parent or spouse responsible for the costs of service for a client in a State mental hospital or State intellectual disability center, or a client who is legally responsible for the support of his spouse or dependent children.

Liability—The portion of the cost of service for which the client or legally liable relative is required to pay.

Liable person—A person who has responsibility to pay the assessed liability. Liable persons are the client and the legally liable relative. In the event that assets, income, or benefits, or both, of the client or legally liable relative are controlled by a representative payee, a guardian of the estate, or trustee, these persons are responsible for assessments made against assets, income, or benefits, or both, belonging to the client or legally liable relative.

MAMIS—The Medical Assistance Management Information System responsible for reimbursement to facilities providing care to Medical Assistance eligible clients.

Maximum liability—The most which a liable person is required to pay toward the costs of service.

Mental health professional—An individual practicing in a generally recognized clinical discipline including, but not limited to, psychiatry, social work, psychology, nursing, rehabilitation or activity therapies, who has a graduate degree and clinical experience.

Modification—A reduction of an assessed liability, by the Department, to an amount greater than zero, but less than the original amount for a specified period.

Nonresident property—Real property is considered "nonresident" if the property:

(i) Is not used as a home by the client.

(ii) Has been the home of the client or his spouse but has not been used for 6 consecutive months and there appears to be little likelihood that either will return to it.

Resident property—A client's real property, used as the client's primary residence, during the first 6 months of institutionalization.

MAXIMUM LIABILITY FOR SERVICES PROVIDED

§ 4310.6. Maximum liability—payors/liable persons.

The maximum liability for services provided is established by the institutional collections officer for both payors and liable persons within the following:

* * * * *

(6) *Client/resident maximum liability.*

(i) Maximum client liability is based on income or assets of the client, or both, in excess of amounts paid by third party payors or other agencies, up to the per diem rate established for the facility. Monthly charges for services provided to mental health and intellectual disability clients may not exceed the product of the per diem rate multiplied by the number of days in the month.

* * * * *

DETERMINING LIABILITY AND ASSESSMENTS

§ 4310.9. Working client income.

When a client residing in a State mental hospital or State intellectual disability center receives income for services rendered at sheltered workshops or other employment, 50% of all income over $65 per month is assessed for his cost of service provided. Any amount less than $65 per month is exempted as personal use monies. Personal use monies may be conserved for his use up to a maximum of $1,500. When the conserved fund maximum is reached, the full amount of income is assessed less $25 per month personal use monies. If, after the assessment, the conserved fund level still exceeds the maximum of $1,500, the excess income over $1,500 is assessed. If the

conserved fund account falls below $1,500, the assessment returns to 50% of all income over $65 until funds again reach $1,500.

BILLING AND COLLECTION

§ 4310.17. Abatement or modification of liability.

(a) Only in extraordinary circumstances will consideration be given to abatement or modification of liability in accordance with the following criteria under section 504(a) of the Mental Health and Intellectual Disability Act of 1966 (50 P.S. § 4504(a)). The imposition of such liability would:

(1) "result in the loss of financial payments or other benefits from any public or private source which the mentally disabled person would receive, would be eligible to receive or which would be expended on his behalf except for such liability";

(2) "result in a substantial hardship upon the mentally disabled person, a person owing a legal duty to support such person or the family of either";

(3) "result in a greater financial burden upon the people of the Commonwealth"; or

(4) "create such a financial burden upon such mentally disabled person as to nullify the results of care and treatment, service or other benefits afforded to such person under any of this act."

(b) The institutional collections officer may assist the client or his legally liable relative, or both, in the preparation of a request for an abatement or modification, if so requested. This may include checking to insure the inclusion of all required information, typing the final copy, and forwarding the request to the Secretary of Human Services or his designee. (Complete PW-83 and PW-833.)

§ 4310.20. Clinical abatement or modification of liability.

(a) The Department may make a clinical abatement or modification of liability if the imposition of liability would result in a greater financial burden upon the people of this Commonwealth or would create such a financial burden upon such mentally disabled person as to nullify the result of care and treatment, service, or other benefits afforded to the person under the Mental Health and Intellectual Disability Act of 1966 (50 P.S. §§ 4101—4704). Clinical abatements will be granted only if:

(1) The imposition of liability would be likely to negate the effectiveness of treatment, or prohibit the client's entry into treatment.

(2) The failure to provide the treatment would result in serious harm to the client's welfare or in greater cost to this Commonwealth due to the deterioration of the client's condition.

(b) Requests for clinical abatement or modification may be initiated either by the MH or intellectual disability professional who is treating the client or by the liable person. If initiated by the liable person, the request shall be endorsed by the MH or intellectual disability professional who is treating the client.

(c) When making a request for clinical abatement, the treating MH or intellectual disability professional shall justify the request in the client's case record by stating why he believes that the client qualifies for clinical abatement or modification. The request for clinical abatement or modification shall be forwarded to the Secretary's designee on Form PW-1075. The Secretary's designee shall review the request and notify the MH or intellectual disability professional and the institutional collections officer of the decision.

APPENDIX A

LLR
MONTHLY LIABILITY SCALE

* * * * *

Dear

Under Sections 501, 502 and 503 of the Mental Health and Intellectual Disability Act of 1966, you are liable for services provided the client mentioned above. According to the Department of Human Service's Regulations promulgated as Chapter 4310 your monthly liability has been assessed in the maximum amount specified above. You will be billed monthly for services provided in accordance with charges established by the Department of Human Services or the amount of your liability, whichever is the lesser amount. It is your responsibility to report significant changes in income which may effect the amount of your liability.

* * * * *

REQUEST FOR DEPARTMENTAL REVIEW

CLINICAL ABATEMENT

* * * * *

_____ _____

Date Signature of MH/ID Professional
PW 1075

PART VIII. INTELLECTUAL DISABILITY AND AUTISM MANUAL

Subpart C. ADMINISTRATION AND FISCAL MANAGEMENT

CHAPTER 6201. COUNTY INTELLECTUAL DISABILITY SERVICES

GENERAL PROVISIONS

§ 6201.1. Introduction.

(a) The county program is the means by which minimum services, as described in the Mental Health and Intellectual Disability Act of 1966 (50 P.S. §§ 4101—4704), are available to promote the social, personal, physical and economical habilitation or rehabilitation of persons with an intellectual disability with respect for the full human, social and legal rights of each person. This means that the health, social, educational, vocational, environmental and legal resources that serve the general population shall be marshalled and coordinated by the county program to meet the personal development goals of persons with an intellectual disability, in accordance with the principle of integration. Integration means to ensure for every person with an intellectual disability and his family the right to live a life as close as possible to that which is typical for the general population. The mandated services, the provision of service mechanisms and the fiscal support of the program shall be used to secure for each person and his family the conditions and circumstances of day-to-day life that comes as close as possible to representing typical life patterns.

(b) In keeping with this principle of integration, the county program shall serve as an advocate for persons with an intellectual disability and secure for them their full entitlement to existing and future human services available to the general population.

§ 6201.2. Purpose.

This chapter establishes county responsibilities and content of services for county MH/ID programs.

§ 6201.3. Applicability.

This chapter applies to county MH/ID programs.

§ 6201.4. Legal base.

The legal authority for this chapter is section 201(2) of the Mental Health and Intellectual Disability Act of 1966 (50 P.S. § 4201(2)).

SERVICE DELIVERY

§ 6201.11. County program.

The county is responsible for the following objectives:

(1) Primary prevention of organic and functional intellectual disability.

(2) Earliest possible case finding and diagnosis.

(3) Medical and surgical correction or amelioration of systemic defects, when possible.

(4) Shaping and maintaining an environment most productive of basic human personality qualities involving parent-child and sibling relationships, environmental adaptation, self-awareness and learning motivation and ability.

(5) Specific training and learning situations designed and implemented to develop all potential.

(6) Community development and restructuring to achieve the maximum integration for individuals with an intellectual disability.

§ 6201.12. Base service unit.

(a) The county administrator is responsible for establishing an organizational unit consisting of multidisciplinary professional and nonprofessional staff capable of planning, directing and coordinating appropriate services for individuals with an intellectual disability and in need of service from the county program. This unit shall be called the base service unit, and the county administrator shall have the authority to direct, control and monitor the activities of the base service unit.

(b) The base service unit is responsible for performing the following functions in such a way as to carry out the following objectives of the county program:

(1) Establish or develop a system utilizing preventive services in the community for persons with an intellectual disability.

(2) Establish and operate a system for earliest possible casefinding.

(3) Maintain a continuing relationship with the person with an intellectual disability and with a facility or provider of service responsible for service to the person with an intellectual disability during any stage of his life-management process.

(4) Constitute a fixed point of referral and information for persons with an intellectual disability and their families.

(5) Initiate, develop and maintain a pattern of interaction between the diagnostic and evaluation team and others concerned with services to any person with an intellectual disability and his family. This pattern shall emphasize participation in the life-management planning process of persons such as the family, physician, local public health nurse, teacher, representative of human service resources, vocational rehabilitation counselor, other providers of service, advocates and the person with an intellectual disability, whenever possible.

(6) Provide opportunities for advancing the knowledge and understanding of persons inside and outside its immediate setting, particularly those who have a responsibility in carrying out the life-management process.

(7) Foster cooperation through the use of multidisciplinary approach.

(8) Ensure that if service to the person with an intellectual disability is provided by other than the base service unit and the person with an intellectual disability is referred for intake into the county program, the referring agency or the provider of service are invited to cooperate with the base service unit in diagnosis, evaluation and planning for the person.

(9) Ensure that services will not be authorized for funding by the county program unless they are consistent with the life-management plan as developed by the base service unit and approved by the county administrator.

(10) Provide for comprehensive diagnosis and evaluation services to do all of the following:

(i) Diagnose, appraise and evaluate intellectual disability and associated disabilities; define the strengths, skills, abilities and potentials for improvement of the individual.

(ii) Assess the needs of the individual and his family.

(iii) Develop a practical life-management plan for individuals and their families and provide the necessary counseling and follow-along services.

(iv) Reassess the progress of the individual at regular intervals to determine continuing needs for service and for changes in his management plan.

§ 6201.13. Intake services.

(a) Intake into the county program shall be through the base service unit.

(b) The condition and circumstances of each individual presumed to require service shall be thoroughly assessed before a disposition is made of his referral.

(1) If it is determined after the assessment that the individual does not currently require further service from the base service unit, the presenting problem, the results of the assessment and the disposition of the case—alternative referral or recommendation—shall be recorded on Form MH/ID 10, Intake and Proposed Service Plan.

(2) If it is determined after assessment that the person requires service, he shall be provided with coordinated services necessary to identify the presence of an intellectual disability, its cause and complications, and the extent to which the intellectual disability limits or is likely limit the individual's daily living and work activities.

(c) Assessment services shall include a systematic appraisal of the findings in terms of pertinent physical, psychological, vocational, educational, cultural, social, economic, legal, environmental and other factors of the person with an intellectual disability and his family for all of the following:

(1) To determine how and to what extent the disabling condition may be expected to be removed, corrected or minimized by services.

(2) To determine the nature and scope of services to be provided.

(3) To select the service objectives which are commensurate to the individual's interests, capacities and limitations.

(4) To devise an individualized program of action to be followed, at the intervals needed, by periodic reappraisals.

(5) To reevaluate progress of the person at intervals as necessary for the periodic appraisal.

(d) Each program service authorized shall have a service objective in keeping with the personal development goal of the person with an intellectual disability; this goal shall be the basis for individualized life management planning.

(1) This information shall be recorded on the Intake and Proposed Service Plan, Form MH/ID 10, along with a listing of the counseling, follow-along, and other services to be provided within a specified period of time in coordinated association with the program service immediately authorized.

(2) A specific date for evaluation of the person's progress and reevaluation of his life-management plan shall also be part of the Intake and Proposed Service Plan.

(3) In all cases, the family of the person with an intellectual disability; the social, economic, cultural, educational, vocational, legal and environmental circumstances affecting him; and his physical and psychological condition shall be considered essential aspects of the life management plan.

§ 6201.14. Aftercare services.

(a) Aftercare services shall be available to prevent unnecessary and prolonged institutionalization and to facilitate the return of persons to their homes or communities. These services shall be designed to enable persons with an intellectual disability to achieve their maximum potential for self-care, self-support, self-sufficiency and social competence.

(b) Aftercare services shall include the following:

(1) Evaluation of persons currently in residential placement.

(2) Preparation of individual life-management plans for persons in placement, to include a definition of the special purpose served by the placement as part of the life-management plan of each individual.

(3) Establishment of an individually appropriate and realistic social development goal to be accomplished by each placement.

(4) Regular liaison with the facility to ensure that time spent in residence is limited to the time required to accomplish the established goal, and that service provided by the facility is consistently more suitable than the person might receive in the community.

(5) Prerelease counseling services to resident and family, referral with follow-through to appropriate community resources for post-release services and follow-along responsibility for post-release life management.

(6) Provision of short-term inpatient, emergency, outpatient, partial hospitalization and rehabilitation and training services, as indicated by individual life-management plans.

(7) Nursing home care for older individuals primarily in need of medically supervised nursing services.

(8) Supervised sheltered personal care living arrangements—groups or singly—for those whose primary need is not medical.

(9) Foster home care, individual and group living.

CHAPTER 6210. PARTICIPATION REQUIREMENTS FOR THE INTERMEDIATE CARE FACILITIES FOR THE INTELLECTUAL DISABILITY PROGRAM

GENERAL PROVISIONS

§ 6210.1. Purpose.

The purpose of this chapter is to specify the requirements for State operated and non-State operated ICFs/ID to receive payment for services through the MA Program.

§ 6210.2. Applicability.

(a) This chapter applies to State operated and non-State operated ICFs/ID.

(b) This chapter applies to non-State operated ICFs/ORC.

(c) Section 6210.63(1) (relating to diagnosis of an intellectual disability) does not apply to ICFs/ORC.

(d) If a provision specified in Chapter 1101 (relating to general provisions) is inconsistent with this chapter, this chapter prevails.

(e) If a provision specified in this chapter is inconsistent with Chapter 6211 (relating to allowable cost reimbursement for non-State operated intermediate care facilities for individuals with an intellectual disability), Chapter 6211 prevails.

§ 6210.3. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

ICF/ID—Intermediate care facility for individuals with an intellectual disability (facility)—A State operated or non-State operated facility, licensed by the Department in accordance with Chapter 6600 (relating to intermediate care facilities for individuals with an intellectual disability), to provide a level of care specially designed to meet the needs of persons who have an intellectual disability, or persons with related conditions, who require specialized health and rehabilitative services; that is, active treatment.

* * * * *

GENERAL REQUIREMENTS

§ 6210.11. Payment.

(a) The MA Program provides payment for intermediate care for an individual with an intellectual disability provided to eligible recipients by providers enrolled in the MA Program.

(b) Payment for services is made in accordance with this chapter, Chapter 1101 (relating to general provisions), HIM-15, the Medicaid State Plan, Chapter 6211 (relating to allowable cost reimbursement for non-State operated intermediate care facilities for individuals with an intellectual disability) and the Department's "Cost Apportionment Manual for State Mental Hospitals and Intellectual Disability Centers" for State operated ICFs/ID.

§ 6210.13. Licensure.

ICFs/ID shall be licensed by the Department in accordance with Chapter 6600 (relating to intermediate care facilities for individuals with an intellectual disability).

SCOPE OF BENEFITS

§ 6210.21. Categorically needy and medically needy recipients.

Categorically needy and medically needy recipients are eligible for ICF/ID subject to the conditions specified in this chapter and Chapters 1101 and 6211 (relating to general provisions; and allowable cost reimbursement for non-State operated intermediate care facilities for individuals with an intellectual disability).

§ 6210.22. State Blind Pension recipients.

State Blind Pension recipients are not eligible for ICF/ID under the MA Program. Blind and visually impaired individuals are eligible for ICF/ID services if they qualify as categorically or medically needy recipients.

PROVIDER PARTICIPATION

§ 6210.32. Budgets and cost reports for State operated facilities.

(a) State operated ICFs/ID shall submit budgets to the Department's Office of Developmental Programs.

(b) State operated ICFs/ID shall submit cost reports to the Department's Bureau of Financial Operations.

§ 6210.33. Budgets and cost reports for non-State operated facilities.

(a) Non-State operated ICFs/ID shall submit cost reports or a budget, if a waiver is granted in accordance with Chapter 6211 (relating to allowable cost reimbursement for non-State operated intermediate care facilities for individuals with an intellectual disability), to the Department's Office of Developmental Programs.

(b) Cost reports and budgets shall be submitted on forms and by deadlines specified by the Department.

§ 6210.34. Approved funding level.

The Department's Office of Developmental Programs is responsible for establishing an approved funding level for non-State operated ICFs/ID.

§ 6210.35. Ongoing provider responsibilities.

* * * * *

(c) A cost report shall be filed with the Department's Office of Developmental Programs for non-State operated ICFs/ID and with the Department's Bureau of Financial Operations for State operated ICFs/ID within the time limit specified in § 6210.77 (relating to cost finding) if the facility is continuing its participation in the MA Program or within the time limit specified in § 6210.92 (relating to final reporting) if the facility is sold, transferred by merger or consolidation, terminated or withdraws from participation in the MA Program.

* * * * *

PAYMENT CONDITIONS

§ 6210.42. Certification of initial need for care.

(a) A physician shall certify in writing in the medical record that the applicant or recipient needs intermediate care for individuals with an intellectual disability.

(b) A nurse practitioner or clinical nurse specialist, who is not an employee of the facility, but who is working in collaboration with a physician, may complete the certification specified in subsection (a).

(c) The certification specified in subsections (a) and (b) shall be signed and dated not more than 30 days prior to either the admission of an applicant or recipient to a facility, or, if an individual applies for assistance while in a facility before the Department authorizes payment for intermediate care for individuals with an intellectual disability.

§ 6210.43. Recertification of continued need for care.

(a) A physician, a physician's assistant under the supervision of a physician or a nurse practitioner, or clinical nurse specialist shall enter into the recipient's medical record a signed and dated statement that the recipient continued to need intermediate care for individuals with an intellectual disability.

(b) In a non-State operated ICF/ID, the person who certifies the need for continued care specified in subsection (a), may not be an employee of the facility but shall work in collaboration with the recipient's physician.

(c) The recertification specified in subsection (a) shall be completed at least once every 365 days after initial certification.

§ 6210.44. Evaluations.

(a) Before admission to a facility, or before authorization for payment, an interdisciplinary team of health professionals shall make a comprehensive medical, social and psychological evaluation of each applicant's or recipient's need for intermediate care for individuals with an intellectual disability. The psychological evaluation shall be completed within 3 months prior to admission.

(b) If a recipient moves from one facility to another facility, this is not considered a new admission and new evaluations as required in subsection (a) are not required, if the prior evaluations are transferred with the recipient.

(c) Medical, social and psychological evaluations shall be recorded in the recipient's medical record and if applicable on forms specified by the Department.

§ 6210.46. Plan of care.

Before admission to an ICF/ID, or before authorization for payment, the attending physician shall establish a written plan of care for each applicant or recipient. The plan of care shall indicate time-limited and measurable care objectives and goals to be accomplished and who is to give each element of care.

ASSESSMENT

§ 6210.61. Eligibility for an ICF/ID level of care.

An applicant or recipient shall receive active treatment to be determined eligible for an ICF/ID level of care. The ICF/ID Program shall have only one level of care. The level of care determination is based upon the developmental needs of each applicant or recipient.

§ 6210.62. Level of care criteria.

(a) There are three fundamental criteria which shall be met prior to an applicant or recipient qualifying for an ICF/ID level of care. The ICF/ID level of care shall be indicated only when the applicant or recipient:

(1) Requires active treatment.

(2) Has a diagnosis of an intellectual disability.

(3) Has been recommended for an ICF/ID level of care based on a medical evaluation.

(b) A physician shall certify the ICF/ID level of care on a form specified by the Department and that ICF/ID services are needed, for each applicant and current ICF/ID resident. Before the facility requests payment from MA, the certification shall have been made at the

time of admission, or at the time a resident applied for assistance while in an ICF/ID.

(c) For purposes of an ICF/ORC, subsection (a)(2) means a diagnosis of other related condition.

§ 6210.63. Diagnosis of an intellectual disability.

The facility shall document the applicant's or recipient's diagnosis of an intellectual disability by meeting the following requirements:

(1) A licensed psychologist, certified school psychologist or a licensed physician who practices psychiatry shall certify that the applicant or recipient has significantly subaverage intellectual functioning which is documented by one of the following:

(i) Performance that is more than two standard deviations below the mean as measurable on a standardized general intelligence test.

(ii) Performance that is slightly higher than two standard deviations below the mean of a standardized general intelligence test during a period when the person manifests serious impairments of adaptive behavior.

(2) A qualified intellectual disability professional as defined in 42 CFR 483.430 (relating to condition of participation: facility staffing) shall certify that the applicant or recipient has impairments in adaptive behavior as provided by a standardized assessment of adaptive functioning which shows that the applicant or recipient has one of the following:

(i) Significant limitations in meeting the standards of maturation, learning, personal independence or social responsibility of his age and cultural group.

(ii) Substantial functional limitation in three or more of the following areas of major life activity:

(A) Self-care.

(B) Receptive and expressive language.

(C) Learning.

(D) Mobility.

(E) Self-direction.

(F) Capacity for independent living.

(G) Economic self-sufficiency.

(3) It has been certified that documentation to substantiate that the applicant's or recipient's conditions were manifest before the applicant's or recipient's 22nd birthday, as established in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C.A. § 6001) (Repealed).

§ 6210.64. Medical evaluation.

Applicants or recipients meeting the criteria for ICF/ID level of care shall have a medical evaluation completed by a licensed physician not more than 60 days prior to admission to an ICF/ID or before authorization for payment. The physician shall recommend the applicant or recipient for an ICF/ID level of care based on the medical evaluation.

§ 6210.65. Recertification.

(a) Recertification shall be on a form specified by the Department and based on the applicant's or recipient's continuing need for an ICF/ID level of care, progress toward meeting plan objectives, the appropriateness of the plan of care and consideration of alternate methods of care.

(b) Recertification of need for an ICF/ID level of care shall be made at least once every 365 days after the initial certification.

PAYMENT LIMITATIONS

§ 6210.71. Limitations on payment for reserved bed days.

(a) Hospital leave is a reserve bed day, limited in number, during which a client is temporarily absent from the facility for hospitalization.

(b) For each hospitalization, a recipient receiving intermediate care for individuals with an intellectual disability, except for a recipient in a State operated ICF/ID, is eligible for a maximum 15 consecutive reserve bed days for hospital leave. The Department will pay a facility at the interim per diem rate on file with the Department for a hospital reserve bed day. Subject to this limit, a facility may include hospital reserve bed days in its census as client days, and costs associated with hospital reserve bed days shall be included in the facility's cost report. A reserve bed will be available for the recipient upon the recipient's return to the facility.

(c) Therapeutic leave is a reserve bed day, subject to limits, during which the recipient is temporarily absent from the facility due to the need to obtain a component of the recipient's individual program plan which cannot be provided directly by the facility. Therapeutic leave is included in the recipient's individual program plan, and the facility is required to monitor and document therapeutic leave. Therapeutic leave is primarily intended to maintain and further enhance relationships between the recipient and his family. Therapeutic leave includes leave for camp or other special programs.

(d) The Department will make payment to a facility for a reserved bed day when the recipient is absent from the facility for a continuous 24-hour period because of therapeutic leave. Each reserved bed day for therapeutic leave shall be recorded on the facility's daily census record and invoice. A reserved bed shall be available for the recipient upon the recipient's return to the facility.

(e) A recipient receiving intermediate care for individuals with an intellectual disability is eligible for a maximum of 75 days per calendar year for therapeutic leave outside the facility.

(f) For each continuous 24-hour period the recipient is absent from the facility, the facility shall bill the Department for a therapeutic leave day, under the limitations in this chapter. When the continuous 24-hour period is broken, this will not count as a reserved bed day.

§ 6210.72. Limitations on payment for prescription drugs.

The Department's interim per diem rate for non-State operated ICFs/ID does not include prescription drugs. Prescribed drugs for categorically needy recipients are reimbursable directly to a licensed pharmacy according to regulations contained in Chapter 1121 (relating to pharmaceutical services).

§ 6210.75. Noncompensable services.

Payment will not be made for:

(1) Services provided to a recipient who no longer requires the level of care for which payment is authorized by the CAO.

(2) Reserved bed days that exceed the limits specified in § 6210.71 (relating to limitations on payment for reserved bed days).

(3) Services provided to a recipient occupying a bed which is not certified for the level of care for which payment is authorized by the CAO.

(4) Services covered but disallowed by Medicare.

(5) Services rendered by a provider that do not meet the conditions for payment established by this chapter and Chapters 1101 and 6211 (relating to general provisions; and allowable cost reimbursement for non-State operated intermediate care facilities for individuals with an intellectual disability).

(6) Services directly reimbursable under the MA Program.

§ 6210.76. Cost reporting.

(a) Each facility shall submit a cost report to the Department within 90 days following the close of each fiscal year as designated by the facility in accordance with § 6210.91 (relating to annual reporting).

(b) The time frame for submission of cost reports may be extended for an additional 30 days with written approval from the Department's Office of Developmental Programs for non-State operated ICFs/ID and from the Department's Bureau of Financial Operations for State operated ICFs/ID.

(c) Cost reports shall be submitted on Department form MA-11.

(d) The cost report shall be prepared using the accrual basis of accounting and shall cover a fiscal period of 12 consecutive months.

(e) Facilities beginning operations during a fiscal period shall prepare a cost report from the date of approval for participation to the end of the facility's fiscal year.

(f) The cost report shall identify costs of services, facilities and supplies furnished by organizations related to the provider by common ownership or control.

§ 6210.78. Allowable costs.

(a) For State operated ICFs/ID, allowable costs shall be determined by the Department's "Cost Apportionment Manual for State Mental Hospitals and Intellectual Disability Centers" and HIM-15.

(b) For non-State operated ICFs/ID, allowable costs shall be determined based on Chapter 6211 (relating to allowable cost reimbursement for non-State operated intermediate care facilities for individuals with an intellectual disability) and HIM-15.

(c) State operated ICFs/ID shall be reimbursed actual allowable costs under the Statewide Cost Allocation Plan and Medicare principles, subject to MA regulations.

(d) Non-State operated ICFs/ID shall be reimbursed actual, allowable reasonable costs under Chapter 6211 and other applicable MA regulations.

§ 6210.79. Setting interim per diem rates.

(a) For State operated ICFs/ID, interim per diem rates shall be established by the Department based on the latest adjusted reported costs and approved budgets.

(b) For non-State operated ICFs/ID, interim per diem rates shall be established by the Department based on the latest adjusted cost report plus an inflationary factor, or a submitted budget if a waiver is granted in accordance with Chapter 6211 (relating to allowable cost reimbursement for non-State operated intermediate care facilities for individuals with an intellectual disability).

§ 6210.81. Upper limits of payment.

(a) The upper limits of payment for State operated ICFs/ID are the full allowable costs as specified in the Department's "Cost Apportionment Manual for State Mental Hospitals and Intellectual Disability Centers" and HIM-15.

(b) The upper limits of payment for non-State operated ICFs/ID are the lower of costs or the total projected operating cost or if a waiver is granted under Chapter 6211 (relating to allowable cost reimbursement for non-State operated intermediate care facilities for individuals with an intellectual disability) an approved budget level as specified in Chapter 6211.

REPORTING AND AUDITING

§ 6210.93. Auditing requirements related to cost reports.

(a) Except in cases of provider delay or delay requested by State or Federal agencies investigating possible criminal or civil fraud, the Department will conduct either a field audit or desk review of each cost report within 1 year of the latter of its receipt in acceptable form, as defined in § 6210.78 (relating to allowable costs) or, if the facility participates in Medicare and has reported home office costs to the Department on its cost report, the Department's receipt of the facility's Medicare home office audit, to verify, to the extent possible, that the facility has complied with:

(1) This chapter.

(2) Chapter 1101 (relating to general provisions).

(3) The limits established in Chapter 6211 (relating to allowable cost reimbursement for non-State operated intermediate care facilities for individuals with an intellectual disability).

(4) The Department's "Cost Apportionment Manual for State Mental Hospitals and Intellectual Disability Centers" for State operated ICFs/ID.

(5) HIM-15.

(6) The Department's cost allocation plan for State operated ICFs/ID.

(b) An onsite field audit will be performed on a periodic basis at reporting facilities. Participating facilities will receive a field audit or a desk audit each year. Full scope field audits will be conducted in accordance with auditing requirements in Federal regulations and generally accepted auditing standards.

(c) An auditor may validate the costs and statistics of the annual report by an onsite visit to the facility. The auditors will then certify to the Department the allowable cost for the facility as a basis for calculating a per diem and an annual adjustment. Based on the certification and total interim payments received by the facility, the Department will compute adjustments due the facility or due the Department for the fiscal year. The Department will notify the facility of the annual adjustment due after the annual cost report is audited.

(d) Financial and statistical records to support cost reports shall be available to State and Federal agents upon request.

UTILIZATION CONTROL

§ 6210.101. Scope of claims review procedures.

Claims submitted for payment under the MA Program are subject to the utilization review procedures established in Chapter 1101 (relating to general provisions). In

addition, the Department will perform the reviews specified in this section and §§ 6210.102—6210.109 for controlling the utilization of ICF/ID services.

§ 6210.108. Facility utilization review.

(a) Each facility furnishing services to eligible MA recipients shall have in effect a written utilization review plan that provides for review of each recipient's need for the services.

(b) If the utilization review committee of a facility finds that the continued stay of a recipient at a specific level of care is not needed, the committee shall, within 1 working day of its decision, request additional information from the recipient's qualified intellectual disability professional, who shall respond within 2 working days. A physician member of the committee, in cases involving a medical determination, or the utilization review committee, in cases not involving a medical determination, shall review the additional information and make the final recommendation. If the additional information is not received within 2 working days, the committee's decision will be deemed final.

(c) The utilization review committee shall send written notice of adverse final decisions on the need for continued stay to:

(1) The facility administrator.

(2) The qualified intellectual disability professional of the recipient.

(3) The CAO.

(d) The CAO shall notify the recipient or the person acting on behalf of the recipient and the facility of the recommended change in the level of care. The recipient has the right of appeal in accordance with Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings). Neither the facility nor the attending physician may appeal the decision of the utilization review committee on its own behalf.

CHAPTER 6211. ALLOWABLE COST REIMBURSEMENT FOR NON-STATE OPERATED INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH AN INTELLECTUAL DISABILITY

GENERAL PROVISIONS

§ 6211.1. Purpose.

This chapter specifies the requirements for MA reimbursement and allowable costs for non-State operated intermediate care facilities for individuals with an intellectual disability.

§ 6211.2. Applicability.

(a) This chapter applies to non-State operated intermediate care facilities for persons with an intellectual disability and non-State operated intermediate care facilities for persons with other related conditions.

(b) The following chapters apply to non-State operated intermediate care facilities for persons with an intellectual disability and non-State operated intermediate care facilities for persons with other related conditions: Chapters 1101 and 6210 (relating to general provisions; and participation requirements for the intermediate care facilities for the intellectual disability program).

(c) In addition to this chapter, the Medicare Provider Reimbursement Manual (HIM-15) applies for costs that are included in this chapter as allowable and for reimbursable costs that are not specifically addressed in this chapter.

(d) If this subchapter is inconsistent with Chapter 6210 or HIM-15, this chapter prevails.

REIMBURSEMENT

§ 6211.45. Disclosure.

(a) If costs have been allocated between programs and supporting services, disclosure shall be made in accordance with generally accepted accounting principles.

(b) If the facility is a controlling organization, disclosure of the affiliate existence and its relationship to the established intermediate care facility for individuals with an intellectual disability shall be made, including the nature of any financial transaction between the affiliate and the facility.

ALLOWABLE COSTS

§ 6211.78. Staff development and training costs.

(a) Costs associated with staff development and training costs are allowable if the training and development is associated with the individual program goals and objectives of the intermediate care facilities for the intellectual disability program.

(b) Staff development and training costs are allowable in accordance with intermediate care facilities for individuals with an intellectual disability certification requirements.

§ 6211.79. Depreciation allowance.

* * * * *

(n) The reasonable cost of depreciation will be recognized for the construction and renovation of buildings to meet applicable Federal, State or local laws and building codes for intermediate care facilities for individuals with an intellectual disability. Costs are allowable if the facility has either a certificate of need or a letter of nonreviewability for the project from the Department of Health under subsection (r)(1) and (2). In accordance with Federal and State regulations, the facility shall submit to the Department the certificate of need or letter of nonreviewability, as appropriate, or the provider will not receive reimbursement for interest on capital indebtedness, depreciation and operating expenses.

(o) If the purchase of a facility or improvements to the facility are financed by tax exempt bonds, the acquired property, plant or equipment shall be capitalized and depreciated over the life of the assets. The acquired property, plant or equipment are the only items that may be capitalized. If the principal amount of the bond issue was expended in whole or in part on capital assets that fail to meet the requirements of the subsections (m) and (n) regarding eligibility for depreciation, the includable depreciation will be proportionately reduced.

(p) The fixed asset records shall include all of the following:

(1) The depreciation method used.

(2) A description of the asset.

(3) The date the asset was acquired.

(4) The cost of the asset.

(5) The salvage value of the asset.

(6) The depreciation cost.

(7) The estimated useful life of the asset.

(8) The depreciation for the year.

(9) The accumulated depreciation.

(q) Effective July 1, 1984, for non-State ICF/ID providers, the funding of depreciation is recommended so that funds may be available for the acquisition and future replacement of assets by the facility. To qualify for treatment as a funded depreciation account, the funds shall be clearly designated in the provider's records as funded depreciation accounts and shall be maintained in accordance with the provisions of HIM-15.

* * * * *

§ 6211.87. Return on equity.

(a) The Department will not contribute to a return on equity for proprietary intermediate care facility for individuals with an intellectual disability programs.

(b) Excess funds shall be returned to the Department within 6 months from the close of an audit or cost settlement determination.

CHAPTER 6250. COMMITMENT AND ADMISSION PROCEDURES FOR INDIVIDUALS WITH AN INTELLECTUAL DISABILITY

GENERAL PROVISIONS

§ 6250.1. Purpose.

The purpose of this chapter is to specify commitment and admission procedures for individuals with an intellectual disability.

§ 6250.2. Applicability.

This chapter applies to State Intellectual Disability Centers and Intellectual Disability Units at State Mental Health Hospitals.

§ 6250.3. Legal base.

The legal authority for this chapter is *Goldy v. Beal* (C. A. No. 75—191, M. D. Pa., October 28, 1976) and section 201(2) of the Mental Health and Intellectual Disability Act of 1966 (50 P.S. § 4201(2)).

INVOLUNTARY COMMITMENT PROCEDURES

§ 6250.11. Determination.

Until new legislation is enacted, and becomes effective, commitments of adults with an intellectual disability under section 406 of the Mental Health and Intellectual Disability Act of 1966 (50 P.S. § 4406) may be processed provided that the Secretary of Human Services, his agents and assigns, those under his direction, and all facility directors may not receive a person committed under section 406 of the Mental Health and Intellectual Disability Act of 1966 except upon judicial determination that the standards in this section are met: A person shall be determined to be an individual with an intellectual disability in need of residency placement only upon the following findings:

(1) The person is impaired in adaptive behavior to a significant degree and is functioning at an intellectual level two standard deviation measurements below the norm as determined by acceptable psychological testing techniques.

(2) The impairment and the resultant disability were manifested before the person's 18th birthday and are likely to continue for an indefinite period.

(3) The person, because of his intellectual disability, presents a substantial risk of physical injury to himself or physical debilitation as demonstrated by behavior within 30 days of the petition which shows that he is unable to provide for, and is not providing for his most basic need for nourishment, personal and medical care, shelter, self-protection and safety and that provision for such needs is not available and cannot be developed or provided in his own home or in his own community without residential placement.

ADMISSION PROCEDURES FOR JUVENILES

§ 6250.21. Admission procedures.

(a) All juveniles 18 years of age and younger to be admitted to an institution must be referred from a recognized medical facility, intellectual disability therapist, pediatrician, general physician, or psychologist.

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§ 6250.22. Notice.

Juveniles aged 13 and older shall be given the following notice:

RIGHTS OF CHILDREN UNDER
SECTIONS 402 AND 403 OF THE MENTAL HEALTH
AND INTELLECTUAL DISABILITY ACT OF 1966

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Subpart D. NONRESIDENTIAL AGENCIES/FACILITIES/SERVICES

ARTICLE II. FUNDING

CHAPTER 6350. FAMILY RESOURCE SERVICES

GENERAL PROVISIONS

§ 6350.1. Introduction.

The Family Resource Services (FRS) Program is designed to offer a variety of services to the family which has a family member with an intellectual disability living within the community, as well as to individuals with an intellectual disability who reside in community settings. The intent of the FRS Program is to reduce the need for institutionalization. The primary purpose of the FRS Program is:

(1) To provide adequate resources within the community to enable the family with a family member with an intellectual disability to maintain that member at home with minimal stress or disruption to the family unit.

(2) To provide adequate resources within the community to enable the individual with an intellectual disability to remain in a family context in a community setting, thus leading as normal a life as possible.

§ 6350.3. Applicability.

This chapter applies to county mental health and intellectual disability programs.

§ 6350.4. Legal base.

The legal authority for this chapter is sections 201, 301, 305, 506 and 509 of the Mental Health and Intellectual Disability Act of 1966 (50 P.S. §§ 4201, 4301, 4305, 4506 and 4509).

§ 6350.5. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise.

Community Living Arrangements (CLA)—Apartments, group homes, developmental maximation units and foster homes.

Department—The Department of Human Services.

Family—A family exists in the following situations:

(i) Natural or adoptive parents who provide care for their child or adult with an intellectual disability in the home of the parents.

(ii) Foster parents who care for their child or adult with an intellectual disability in the home of the foster parents.

(iii) Related or unrelated persons who provide care for a child or adult with an intellectual disability within their home.

Family aid—A "sitter-type" service offered to parents who need a person to care for their family member with an intellectual disability for a few hours at a time.

Family education training—Programs offered to assist parents of a child or adult with an intellectual disability, individual with an intellectual disability who are parents, spouses and siblings or other family members in dealing appropriately with a family member with an intellectual disability. This may include education/training in family dynamics, parent-child relationships, behavior management, genetic counseling, family planning, or other type of program designed to maintain the family as a cohesive unit.

Homemaker services—Homemakers may be available to perform essential household duties when family members or individuals are unable to manage such tasks effectively. This type of service may be to maintain continuity of care of an individual with an intellectual disability within the home during a family illness or similar circumstance or to provide training in proper home management for the individual with an intellectual disability or his family or legal guardian with whom he resides.

Independent residence—Individuals with an intellectual disability who are residing in the community, usually in their own home or apartment, who are able to pay for their own room, board, and clothing-type expenses.

Individual—A child or adult who is deemed to have an intellectual disability by the county mental health/intellectual disability administrator responsible for the county in which the individual resides. The evaluation process for an intellectual disability shall be in compliance with the Mental Health and Intellectual Disability Act of 1966 (50 P.S. §§ 4101—4704).

In-home therapy—This service insures that the family member with an intellectual disability will receive necessary treatment or therapy even when he is homebound. These therapies include but are not necessarily limited to the following:

(i) Visiting nurses.

(ii) Physical/occupational therapy.

(iii) Speech/language therapy/audiology.

(iv) Visual/mobility therapy.

(v) Vocational therapy.

(vi) Recreational therapy.

(vii) Dental hygienics.

(viii) Behavioral programming.

Recreation/leisure time activities—Services that allow the individual with an intellectual disability to experience normal community leisure time activities and increase his ability to participate more independently in similar activities.

Respite care—A temporary residence available to an individual with an intellectual disability when his family or legal guardian with whom he is residing is experiencing stress, personal crisis, or a need for a vacation.

Special innovative services—All services/opportunities considered for Family Resource Services (FRS) funding under this category must have written approval by the appropriate Department regional office prior to implementation. The expenditures for all services/opportunities funded under this category by a given County Mental Health/Intellectual Disability (MH/ID) Office may not exceed 10% of the total FRS allocation for that county office.

State centers—Residential facilities owned and operated by the Department for the care and treatment of individuals with an intellectual disability.

PROGRAM COSTS

§ 6350.11. Funding.

(a) Funding of the Family Resource Services (FRS) Program is based upon the 90% State/10% county matching formula.

(b) FRS funds may be utilized only to pay for eligible services.

(c) FRS funds may not be utilized to subsidize regular day programs, such as vocational, educational, day care.

(d) FRS funds may not be utilized to cover the direct costs of staff salaries; however, an agency which is program-funded by the County Mental Health/Intellectual Disability (MH/ID) Office to provide FRS-eligible services may include the costs of staff salaries in its charges to the County MH/ID Office for the provision of those services for which it is program-funded.

§ 6350.13. Collection of costs.

Payment for and collection of costs for Family Resource Services (FRS) Program services shall be made with county procedures consistent with section 506 of the Mental Health and Intellectual Disability Act of 1966 (50 P.S. § 4506).

§ 6350.14. Charges.

The charges to clients and legally responsible relatives shall not exceed the verified going rate for similar services to persons without a disability. In those situations in which no local prevailing fee exists, costs of such services may be negotiated between the County Mental Health/Intellectual Disability (MH/ID) Program and the service provider. The difference between the actual cost and liability, if any, shall be borne by the County MH/ID Program.

§ 6350.15. Liability insurance for service providers.

Liability insurance for providers of services funded through the Family Resource Services Program is handled under current Department policy which covers the issue of liability insurance for the provision of community-based mental health and intellectual disability services.

§ 6350.16. Waiver option.

(a) The Department's regional directors for the office of developmental programs may, in special situations, waive specific provisions within this chapter which govern the Family Resource Services (FRS) Program when an identified need for an FRS-eligible service cannot be met because of a restriction imposed by this chapter. This

waiver option does not apply to Chapter 4305 (relating to liability for community mental health and intellectual disability services).

(b) The request for a waiver of a provision of this chapter shall be consistent with the philosophy and intent of the FRS Program and shall relate to an FRS-eligible service.

(c) The County Mental Health/Intellectual Disability (MH/ID) Administrator shall submit a written request to the appropriate Department's regional commissioner for intellectual disability to have a specific provision of this chapter waived for a specific situation.

(d) The written request shall include documentation which explains why it is necessary to have a provision of this chapter waived.

(e) The request shall be for a specific situation and involve a specific person or group of persons to be served for a specific period of time.

(f) The Department's regional commissioner for the office of developmental programs shall submit to the county mental health and intellectual disability administrator written notification of the approval or disapproval of the request for a waiver prior to the implementation of the service.

(g) Copies of requests and decisions related to the waiver option shall be submitted to the central office of developmental programs for review.

SERVICE AREAS

§ 6350.21. Respite care.

(a) The Family Resource Services (FRS) funds shall be made available for respite care services at the following places:

(1) The home or place of residence of an individual with an intellectual disability.

(2) The home of a family that the county mental health and intellectual disability office has approved. The "host" family may offer respite care to no more than two individuals with an intellectual disability at one time.

(3) If the individual with an intellectual disability is in need of medical care and supervision, an approved medical facility such as a general hospital or nursing home may be utilized. For a facility to be used for respite care, the county mental health and intellectual disability office or its designate shall document the medical needs of the individual with an intellectual disability, and the county mental health and intellectual disability administrator shall give approval of the placement in the medical facility of the individual with an intellectual disability.

(b) FRS funds may not be used to pay for respite care in the following situations:

(1) State centers for individuals with an intellectual disability. The county mental health and intellectual disability program is not responsible for paying for the care of individuals with an intellectual disability who are permanently or temporarily residing in State centers.

(2) County residential facilities which are not licensed by Chapter 6400 (relating to community homes for individuals with an intellectual disability).

(c) Allowable time periods for respite care are as follows:

(1) Respite care shall be considered relief care lasting between 24 hours and 4 weeks.

(2) Respite care for any individual shall not exceed 4 weeks within a given fiscal year, that is, July 1 of a given year through June 30 of the following year.

(d) Respite care is provided only for the individual with an intellectual disability family member and does not include caring for siblings who do not have an intellectual disability.

§ 6350.22. Family aid.

(a) This service shall provide relief lasting less than 24 hours in any one time period. This resource is available to families who previously have not been able to obtain "sitter" type service because the family member has an intellectual disability.

(b) Each family aide shall be approved by the county mental health and intellectual disability office after successful completion of a training program before working as a family aide.

(1) A portion of Family Resources Services (FRS) money may be set aside for basic training for those persons who will function as family aides.

(2) Follow-up training must be provided no less than once a year.

(3) The family aides may be paid while attending training sessions.

(4) The training program must be approved by the county mental health and intellectual disability office.

(c) If the county mental health and intellectual disability office contracts with another agency to provide this service, the following applies:

(1) The agency shall provide a training program approved by the County MH/ID Office.

(2) Each family must provide the Base Service Unit with information necessary for determining liability.

(d) Family aides should be recruited and screened.

(e) A list of approved aides will be kept in the County MH/ID Office or its designee, or both.

(f) Families must contact the County MH/ID Office, Base Service Unit, or the contracting agency to request the service. Unless the County MH/ID Office or its designate has made the appropriate arrangements, the family aide will not be eligible to receive payment with FRS funds.

(g) The family aide will be responsible for the care of every family member left in his charge. If any siblings are to be cared for other than the individual with an intellectual disability, the aide must be so advised before being given the assignment. The County MH/ID Office or its designate will determine the additional charge, if any, for the care of other siblings.

(h) At the end of each care period, the aide must submit to the County MH/ID Office or its designate a written report which should include remarks about any significant events, incidents, and the like, that occurred during the care period and which may prove beneficial to other aides when and if the family receives FRS in the future. Such reports must be treated within the context of the rules of confidentiality and privacy so as to protect the rights of the service recipients.

(i) Aides may not accept gifts from families for whom they are providing family aid.

(j) The maximum time allowed for family aid service will be 24 hours per session. This may be overnight but shall not exceed the maximum time limit.

(k) A recommended maximum of four sessions should be allowed per family per month. This may be adjusted by the County MH/ID Office based on individual needs and resources at a given time.

(l) This service shall not take the place of day programming for the individual with an intellectual disability.

(m) Family aid shall not be provided daily unless authorized in writing by the County MH/ID Administrator.

(n) Family aid can be provided in the home or place of residence of the individual with an intellectual disability, or the home of a family that the County MH/ID Office has approved.

(o) If there is an expressed need, this service should be made available on a group as well as an individual basis within a home or appropriate facility.

§ 6350.23. Homemaker services.

(a) The primary functions of homemaker services are to provide adult care and supervision for individuals with an intellectual disability and other members of the family within the home when the adults regularly responsible are unable to provide them, and to provide training in proper home management. The homemaker not only provides personal care but also insures that regular daily homemaking and housekeeping tasks are performed. These services are also available to adults with an intellectual disability who are living independently in the community.

(b) The homemaker's responsibilities may include, but are not limited to, any combination of the following:

(1) Household chores, such as cleaning, cooking, meal planning, laundry, ironing, and marketing.

(2) Personal care of dependent children—not limited to the family member with an intellectual disability.

(3) Budgeting or money management, or both.

(4) Instructing the family members or the individual with an intellectual disability, or both, in how to perform homemaking duties more effectively and efficiently.

(c) The homemaker will be given, in writing, a list of specific responsibilities before an assignment.

(d) The homemaker may assume live-in responsibilities if there is no other responsible adult who is able to care for the dependent children during the evening and night. This is allowable only if the homemaker is providing daytime duties within the same household. An example of this type of service would be a single parent who has no close relative and the parent is hospitalized, one parent is hospitalized and the other parent is out-of-town, or the parents are unable to care for the needs of their dependent children. The homemaker would then provide direct service, day and night, as well as instruction.

(e) The homemaker must be assigned for a specific period of time for specific duties and responsibilities:

(1) The initial time period may not be for more than 1 month. A mandatory 2-week interval must be observed for evaluation purposes prior to any extension of this service.

(2) All requests for extension must be evaluated by the Base Service Unit and approved in writing by the County Mental Health/Intellectual Disability (MH/ID) Administrator with a copy to the regional commissioner for the office of developmental programs.

(3) For an extension after 6 weeks from the beginning of the service, the County MH/ID Office must document the lack of feasibility of other alternatives. Specific goals must be determined, and reasonable time limits necessary to meet them must be established.

(f) A homemaker is not to be used for babysitting purposes only. This precludes the assignment of a homemaker, on an ongoing basis, to care for an individual with an intellectual disability while the adult family members work. A family aide may be assigned intermittently to a family for that purpose. Neither service should take the place of a "day program" for the individual with an intellectual disability.

§ 6350.24. Inhome therapy.

(a) This service should be available when the family member with an intellectual disability must receive therapy or a nonpublic school program in his own home. It insures the family that the family member with an intellectual disability will receive important treatment or therapy even in the event that he is "homebound." This service is primarily directed to those individuals with an intellectual disability who have multiple disabilities or significant medical needs, or both. Except in unusual circumstances, it should not be utilized when the individual with an intellectual disability is capable of leaving his home to receive such needed therapy.

(1) Visiting nurses/related inhome medical therapy is an acceptable inhome therapy service. This service may include professional or paraprofessional personnel who perform such tasks as:

(i) Assisting the parents with special medically related problems and training these parents to perform these functions when possible.

(ii) Tube feeding, respiration control (oxygen), other special feeding techniques.

(iii) Administering medication.

(iv) Exercising.

(v) Dietetics.

(vi) Other medical treatment as directed by the physician.

(vii) General health care.

(viii) Caring for the convalescing individual with an intellectual disability after he has been hospitalized.

(2) Only a registered nurse or a licensed practical nurse may perform or direct inhome medical therapy.

(3) Inhome medical therapy will be paid for only if a physician has, in writing, prescribed the specific services required.

(4) The physician's written prescription must be available to the Base Service Unit and the County Mental Health/Intellectual Disability (MH/ID) Office.

(b) Physical/occupational therapy services may be vital to the individual with an intellectual disability and a physical disability whose family, because of these disabilities, will need additional assistance in physical care and in basic self-care skills development. This service not only will help the individual with an intellectual disability to be self-sufficient but will also provide relief to other family members.

(1) The following eligible persons are listed in order of priority:

(i) Persons who are "homebound" and not able to go out of the home for therapy.

(ii) Persons who are attending a day program where no formal physical or occupational therapy is provided.

(iii) Persons who have had a minimal amount of physical and occupational therapy, but professional evaluation indicates that the person needs a more consistent program than has been available.

(2) A licensed physical therapist must perform or direct physical therapy. A registered occupational therapist must perform or direct occupational therapy.

(3) Physical therapy or occupational therapy will be paid for only if a physician has, in writing, either documented the need for or prescribed a specific therapy program.

(4) The written therapy prescription and program plan must be available to the Base Service Unit and the County MH/ID Office.

(5) Responsible family members must receive instruction and be a part of the therapy program.

(6) If an individual with an intellectual disability is of school age, the public school system should provide the therapy service when it is a part of the person's individual prescriptive educational plan.

(c) Speech/language therapy/audiology services are acceptable Family Resource Service (FRS) Programs.

(1) The "eligible persons" listed in subsection (b)(1) apply equally to speech/language therapy/audiology.

(2) To be eligible, the individual with an intellectual disability must have been examined by a certified or certification-eligible audiologist for possible hearing deficiencies or a certified or certification-eligible speech therapist who have recommended a formal speech/language/audiology program. The ensuing program must be professionally prescribed and directed.

(3) A written program, including short- and long-range goals, must be available to both the Base Service Unit and the County MH/ID Office.

(4) There must be evidence of involvement of responsible family members in the speech/language/audiology program.

(5) If the individual with an intellectual disability is of school age, the public school system should provide this service.

(d) Visual/mobility therapy (training) service may be vital to the individual with an intellectual disability and a severe visual impairment, who because of these disabilities, is unable to navigate around his place of residence or in the community.

(1) The "eligible persons" listed in subsection (b)(1) apply equally to visual/mobility therapy (training).

(2) To be eligible, the individual with an intellectual disability must have been examined by a physician to determine the extent of visual impairment and to document the need for visual/mobility therapy (training).

(3) A trained mobility specialist/instructor must evaluate the individual with an intellectual disability and a visual impairment and develop a written visual/mobility training program plan specific to the service recipient.

(4) A trained mobility specialist/instructor must perform the visual/mobility therapy (training).

(5) The written therapy program plan, including short- and long-range goals, must be available to the Base Service Unit and the County MH/ID Office.

(6) There must be evidence of involvement by responsible family members in the visual/mobility training program.

(7) If an individual with an intellectual disability is of school age, the public school system should provide this service.

(e) Vocational therapy consists of the provision of vocationally oriented services in the home of an individual with an intellectual disability to help the individual with an intellectual disability become more self-sufficient, progress to an out-of-home setting, or maintain vocational skills previously acquired.

(1) The following are eligible persons for inhome vocational therapy:

(i) Persons who are engaged in community vocational programs but are temporarily "homebound" while convalescing from an illness, accident, or are receiving medical treatment related to a chronic handicapping condition.

(ii) Persons who are not currently engaged in a community vocational habilitation program and who are indefinitely "homebound" due to the severity of their mental or physical handicap. These persons could benefit from vocational services:

(A) To enhance their self-worth and self-sufficiency within the homebound situation.

(B) To assess their vocational potential and develop their social/vocational functioning to the point that they can enter an out-of-home vocationally-oriented setting.

(2) For eligible persons to participate inhome vocational therapy, the following procedures must be followed:

(i) There must be a written physician's statement that the person's medical condition permits him to participate in homebound employment and which includes an estimate of the time needed for convalescence.

(ii) There must be a written individual habilitation plan for the homebound work prepared and implemented by the community vocational program in which the person has been participating.

(iii) The written program must be available to the Base Service Unit and the County MH/ID Office.

(3) Homebound employment may be funded for an initial interval of 2 months. Extensions, in intervals of 2 months, or less, may also be funded, provided that a medical statement indicates the person may not yet return to the vocational program in the community. Homebound employment may not be utilized beyond the point when the individual with an intellectual disability is capable of leaving his home to participate in an out-of-home vocational program.

(4) There should be evidence that the family supports the homebound employment program in terms of available work space and time in the home but does not do the work for the individual with an intellectual disability.

(5) For eligible persons to participate in inhome vocational therapy:

(i) The individual with an intellectual disability must be evaluated initially by a qualified vocational evaluator who recommends an inhome vocational therapy program.

(ii) There must be evidence, preferably a physician's statement, that the person cannot participate in a vocational program at an out-of-home setting due to the severity of his mental or physical handicap with an estimate of the duration of the homebound state.

(iii) There must be an individual inhome vocational therapy plan prepared and directed by a recognized community vocational habilitation program.

(iv) Except in unusual circumstances, as determined by the County MH/ID Office, there should be evidence within the individual's program plan that the inhome program will result in the individual eventually entering an out-of-home vocationally oriented setting.

(v) This written program plan must be available to the Base Service Unit and the County MH/ID Office.

(vi) Quarterly status reports must be submitted to the Base Service Unit and County MH/ID Office as part of the program plan implementation.

(vii) Vocational therapy for eligible persons may be funded for an initial interval of 6 months).

(viii) The initial vocational evaluation in the home may also be funded through the FRS Program. Extensions, in intervals of 3 months or less, may also be funded, provided that the quarterly program status report indicates that extended service is an integral part of the individual's vocational habilitation plan.

(f) Recreational therapy/therapeutic recreation is for individuals with an intellectual disability who, due to the severity of their mental or physical handicap, or both, may be deprived of having their minimal socio-recreative needs met because of their homebound state and, consequently, may be showing signs of psycho-social regression or physical atrophy, or both.

(1) Inhome recreational therapy services may only be made available to those individuals with an intellectual disability who are "homebound."

(2) Recreational therapy/therapeutic recreation services should be provided or directed by an individual with training in recreation or an allied human services field. Appropriate training may be obtained from a formal academic education as well as participation in seminars, workshops, inservice training programs, and the like.

(3) Inhome recreational therapy services may be paid for through the FRS Program provided that the services result from a goal-oriented recreational therapy plan for the individual service recipient with an intellectual disability. This program plan must include the following:

(i) A statement which defines the needs of the individual with an intellectual disability for inhome recreational therapy service.

(ii) A statement of short- and long-term goals which serve as the rationale for the recreational therapy program.

(iii) A general description of the program.

(4) The written plan for the recreational therapy program must be available to the Base Service Unit and the County MH/ID Office.

(5) Responsible family members must receive instruction in and be a part of the recreational therapy program.

(g) Professional inhome dental hygiene services may be made available to those individuals with an intellectual disability who because of the mental or physical disabilities, or both, are "homebound."

(1) Only those inhome dental hygiene services provided by a dentist or licensed dental hygienist are eligible for FRS funding.

(2) The dental hygiene program must be approved by the County MH/ID Office.

(3) A copy of the dental hygiene treatment plan/program must be available to the Base Service Unit and the County MH/ID Office.

(4) Responsible family members must receive instruction in and be a part of the approved dental hygiene program.

(h) Behavioral programming and other related services may be provided through the FRS Program with the provision that they are consistent with the general intent of the FRS Program and the specific inhome therapy guidelines.

§ 6350.25. Family education/training.

(a) Family education/training services may be made available to parents of a child or adult with an intellectual disability, to individuals with an intellectual disability who are parents, and to spouses and siblings or other family members to assist them in dealing appropriately with a family member with an intellectual disability. Programs under this service may include education/training in family dynamics, parent/child relationships, behavior management, genetic counseling, family planning, or any other type of program designed to maintain the family as a cohesive unit.

(b) Family education training services may be funded through the Family Resource Services (FRS) Program provided that they are consistent with the following criteria:

(1) The nature and purpose of the training program must be consistent with the intent of the FRS Program.

(2) All education/training programs funded through the FRS Program must be approved by the County Mental Health/Intellectual Disability (MH/ID) Office.

(c) The County MH/ID Administrator has the following options in providing family education/training through the FRS Program:

(1) The education/training program may be provided directly through the County MH/ID Office.

(2) It may be provided indirectly by purchasing the education/training service from another individual or agency vendor.

(3) The education/training program may be provided indirectly by paying on a fee-for-service basis the charges incurred by a service recipient's participation in a family education/training program approved, but not sponsored directly, by the County MH/ID Office.

(d) FRS funds may be used to pay for education/training programs designed for families who have family members with an intellectual disability within the home as well as individuals with an intellectual disability who are parents. FRS funds may not be used to pay for inservice or staff training programs. Other resources should be utilized for those programs.

(e) FRS funds should be used for family education/training programs when all other applicable funding sources have been eliminated.

§ 6350.26. Recreation/leisure-time activities.

(a) Recreation programs should allow the individual with an intellectual disability to experience regular community leisure-time activities, increase his ability to participate in these activities independently, and enhance his physical or psycho-social development, or both.

(b) It is important that the individual with an intellectual disability is given every opportunity to interact with nonrelated people in the mainstream of activity within the community. The following eligible situations are listed in order of priority and should be considered when funding recreation programs through the Family Resource Services (FRS) Program:

(1) The individual with an intellectual disability is integrated into regular community facilities and programs, that is, the individual with an intellectual disability participates in a regular program designed for individuals without an intellectual disability.

(2) The individual with an intellectual disability is in a segregated program but in existing community facilities intended for the general population and where individuals without an intellectual disability are recreating at the same time, such as, a summer recreation program designed specifically for a group of individuals with an intellectual disability which takes place on a community playground where individuals without an intellectual disability are also recreating.

(3) The individual with an intellectual disability is in segregated programs in existing community facilities intended for the general population but regular recreation programs are not scheduled at the same time, such as, a scout troop with membership limited to individuals with an intellectual disability may hold its functions in a community facility during times when individuals without an intellectual disability are not scheduled to participate in programs at the facility.

(4) Special facilities and programs within the community serving only individuals with disabilities are used for recreation purposes, such as, a sheltered workshop which operates an evening recreation program.

(5) Segregated recreation programs are provided in isolated areas outside of the community which do not allow any socially integrative opportunities, such as, recreation programs designed for individuals with an intellectual disability living within the community which take place on State center grounds.

(c) The County Mental Health/Intellectual Disability (MH/ID) Office may arrange for or provide recreation services/opportunities which may be funded through the FRS Program preferably on a fee-for-service basis:

(1) Existing community recreation services should be utilized whenever they are available, such as, YMCA, municipal recreation programs, community parks and pools, and the like.

(2) Private agencies or organizations that serve only individuals with a disability, such as United Cerebral Palsy, The Arc, Easter Seal, and the like, should operate FRS funded programs only when alternatives are not and cannot be readily available.

(3) The charges for these services/opportunities should generally be based upon the number of persons served in the recreational program and shall include the cost of facilities, equipment, supplies, and staff; however, to assure maximum benefit for the individual service recipient, blanket program funding allocated to agencies or organizations for the provision of recreational services/opportunities must be considered the exception rather than the rule.

(d) Recreation programs should be ancillary to day programs which operate daily during the week.

(1) Evening programs which operate during the week, Monday through Friday.

(2) Day or evening programs which operate on Saturdays and Sundays.

(3) Day recreational services/opportunities may be provided for adults with an intellectual disability who are currently unemployed. This provision must be secondary to full day programming.

(4) Day or evening recreational services/opportunities may be provided during periods of time in which the individual with an intellectual disability is on vacation from employment or school.

(e) Programs must be recreational in nature. They should not take the place of educational programs but may substitute for family aid services.

(f) Recreational programs should encourage skill development, be designed to meet the socio-recreative needs of the individual, and be normal leisure-time activities, such as, bowling, swimming, dancing, camping.

(g) Each recreational program must be approved by the County MH/ID Office as being therapeutic for the service recipient.

(h) Whenever possible, the participants should assist in deciding on particular activities within the program. Services/opportunities designed for adults must provide for client involvement in the selection of activities.

(i) FRS funded recreation programs may not be a part of a regular day program. A portion of a day program—day care or vocational—may not be paid for with FRS recreation funds even though part of the day program provides recreational opportunities.

(j) FRS funds may be used for individual activities as well as for group recreation programs.

(k) Rationale for the use of FRS funds to pay for the service recipient's participation in individual or group recreational programs, or both, must be consistent with the overall FRS Program philosophy.

(l) The participation of service recipients in FRS funded individual or group recreation programs must be approved by the County MH/ID Office as being therapeutic for the individual service recipient.

(m) "Therapeutic" is defined here as that which is designed to meet the specific socio-recreative needs of the individual service recipient in the context of socially acceptable norms.

§ 6350.27. Special innovative services.

It is recognized that there may be instances in which a given County MH/ID Office may discover an unmet need for the provision of a new, innovative service/opportunity for individuals with an intellectual disability living in a community setting or for families who have a family member with an intellectual disability living within the home, and such a service/opportunity may not be specifically defined in this chapter. Such services/opportunities may only be funded through the Family Resources Services (FRS) Program if they meet the following criteria:

(1) The new, innovative program must conform to and be consistent with the definition and intent of the FRS Program.

(2) The new, innovative program must not contain provisions which are contradictory to any of the provisions specified in the existing FRS Program service areas as defined in this chapter.

(3) All services/opportunities considered for FRS funding under this category must have written approval by the appropriate Department's DHS regional office prior to implementation.

(4) The expenditures for all services/opportunities funded under this category by a given County MH/ID Office may not exceed 10% of the total FRS annual allocation for the County MH/ID Office.

Subpart E. RESIDENTIAL AGENCIES/FACILITIES/SERVICES

ARTICLE I. LICENSING/APPROVAL

CHAPTER 6400. COMMUNITY HOMES FOR INDIVIDUALS WITH AN INTELLECTUAL DISABILITY

GENERAL PROVISIONS

§ 6400.1. Introduction.

This chapter is based on the principle of integration and the right of the individual with an intellectual disability to live a life that is as close as possible in all aspects to the life which any member of the community might choose. For the individual with an intellectual disability who requires a residential service, the design of the service shall be made with the individual's unique needs in mind so that the service will facilitate the person's ongoing growth and development.

§ 6400.2. Purpose.

The purpose of this chapter is to protect the health, safety and well-being of individuals with an intellectual disability, through the formulation, implementation and enforcement of minimum requirements for the operation of community homes for individuals with an intellectual disability.

§ 6400.3. Applicability.

(a) This chapter applies to community homes for individuals with an intellectual disability, except as provided in subsection (f).

(b) This chapter contains the minimum requirements that shall be met to obtain a certificate of compliance. A certificate of compliance shall be obtained prior to operation of a community home for individuals with an intellectual disability.

(c) This chapter applies to profit, nonprofit, publicly funded and privately funded homes.

(d) Each home serving nine or more individuals shall be inspected by the Department each year and shall have an individual certificate of compliance specific for each building.

(e) Each agency operating one or more homes serving eight or fewer individuals shall have at least a sample of its homes inspected by the Department each year. The certificate of compliance issued to an agency shall specify the location and maximum capacity of each home the agency is permitted to operate.

(f) This chapter does not apply to the following:

(1) Private homes of persons providing care to a relative with an intellectual disability.

(2) Residential facilities operated by the Department.

(3) Intermediate care facilities for individuals with an intellectual disability licensed by the Department in accordance with Chapter 6600 (relating to intermediate care facilities for individuals with an intellectual disability).

(4) Foster family care homes licensed by the Office of Children, Youth and Families of the Department that serve only foster care children.

(5) Summer camps.

(6) Facilities serving exclusively personal care home, drug and alcohol, mental health or domiciliary care residents.

(7) Residential homes for three or fewer people with an intellectual disability who are 18 years of age or older and who need a yearly average of 30 hours or less direct staff contact per week per home.

(8) Child residential facilities which serve exclusively children, which are regulated under Chapter 3800 (relating to child residential and day treatment facilities).

(g) This chapter does not measure or assure compliance with other applicable Federal, State and local statutes, regulations, codes and ordinances. It is the responsibility of the home to comply with other applicable laws, regulations, codes and ordinances.

§ 6400.4. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Agency—A person or legally constituted organization operating one or more community homes for people with an intellectual disability serving eight or fewer individuals.

Community home for individuals with an intellectual disability (home)—A building or separate dwelling unit in which residential care is provided to one or more individuals with an intellectual disability, except as provided in § 6400.3(f) (relating to applicability). Each apartment unit within an apartment building is considered a separate home. Each part of a duplex, if there is physical separation between the living areas, is considered a separate home.

* * * * *

Individual—An individual with an intellectual disability who resides, or receives residential respite care, in a home and who is not a relative of the owner of the home.

Intellectual disability—Subaverage general intellectual functioning which originates during the developmental period and is associated with impairment of one or more of the following:

(i) Maturation.

(ii) Learning.

(iii) Social adjustment.

Outcomes—Goals the individual and individual's plan team choose for the individual to acquire, maintain or improve.

* * * * *

GENERAL REQUIREMENTS

§ 6400.15. Self-assessment of homes.

(a) The agency shall complete a self-assessment of each home the agency operates serving eight or fewer individuals, within 3 to 6 months prior to the expiration date of the agency's certificate of compliance, to measure and record compliance with this chapter.

(b) The agency shall use the Department's licensing inspection instrument for the community homes for individuals with an intellectual disability regulations to measure and record compliance.

(c) A copy of the agency's self-assessment results and a written summary of corrections made shall be kept by the agency for at least 1 year.

§ 6400.18. Reporting of unusual incidents.

(a) An unusual incident is abuse or suspected abuse of an individual; injury, trauma or illness of an individual requiring inpatient hospitalization; suicide attempt by an individual; violation or alleged violation of an individual's rights; an individual who is missing for more than 24 hours or who could be in jeopardy if missing at all; alleged misuse or misuse of individual funds or property; outbreak of a serious communicable disease as defined in 28 Pa. Code § 27.2 (relating to specific identified reportable diseases, infections and conditions); an incident requiring the services of a fire department or law enforcement agency; and any condition that results in closure of the home for more than 1 day.

(b) Written policies and procedures on the prevention, reporting, investigation and management of unusual incidents shall be developed and kept at the home.

(c) The home shall orally notify the county intellectual disability program of the county in which the home is located, the funding agency and the appropriate regional office of the Department, within 24 hours after abuse or suspected abuse of an individual or an incident requiring the services of a fire department or law enforcement agency occurs.

(d) The home shall initiate an investigation of the unusual incident and complete and send copies of an unusual incident report on a form specified by the Department to the county intellectual disability program of the county in which the home is located, the funding agency and the appropriate regional office of the Department, within 72 hours after an unusual incident occurs.

(e) The home shall send a copy of the final unusual incident report to the county intellectual disability program of the county in which the home is located, the funding agency and the appropriate regional office of the Department at the conclusion of the investigation.

(f) A copy of unusual incident reports relating to an individual shall be kept in the individual's record.

(g) A copy of unusual incident reports relating to the home itself, such as those requiring the services of a fire department, shall be kept.

(h) The individual's family or guardian shall be immediately notified in the event of an unusual incident relating to the individual, if appropriate.

§ 6400.19. Reporting of deaths.

(a) The home shall complete and send copies of a death report on a form specified by the Department to the county intellectual disability program of the county in which the home is located, the funding agency and the regional office of the Department, within 24 hours after a death of an individual occurs.

(b) The home shall investigate and orally notify the county intellectual disability program of the county in which the home is located, the funding agency and the appropriate regional office of the Department within 24 hours after an unusual or unexpected death occurs.

(c) A copy of death reports shall be kept in the individual's record.

(d) The individual's family or guardian shall be immediately notified in the event of a death of an individual.

STAFFING

§ 6400.44. Program specialist.

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(c) A program specialist shall have one of the following groups of qualifications:

(1) A master's degree or above from an accredited college or university and 1 year work experience working directly with individuals with an intellectual disability.

(2) A bachelor's degree from an accredited college or university and 2 years work experience working directly with individuals with an intellectual disability.

(3) An associate's degree or 60 credit hours from an accredited college or university and 4 years work experience working directly with individuals with an intellectual disability.

§ 6400.46. Staff training.

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(e) Program specialists and direct service workers shall have training in the areas of intellectual disability, the principles of integration, rights and program planning and implementation, within 30 calendar days after the day of initial employment or within 12 months prior to initial employment.

* * * * *

INDIVIDUAL HEALTH

§ 6400.143. Refusal of treatment.

(a) If an individual refuses routine medical or dental examination or treatment, the refusal and continued attempts to train the individual about the need for health care shall be documented in the individual's record.

(b) If an individual has a serious medical or dental condition, reasonable efforts shall be made to obtain consent from the individual or substitute consent in accordance with applicable law. See section 417(c) of the Mental Health and Intellectual Disability Act of 1966 (50 P.S. § 4417(c)).

CHAPTER 6500. FAMILY LIVING HOMES

GENERAL PROVISIONS

§ 6500.1. Introduction.

Family living is based on the importance of enduring and permanent relationships as the foundation for learning life skills, developing self-esteem and learning to exist in interdependence with others; the opportunity for each individual with an intellectual disability to grow and develop to their fullest potential; the provision of individualized attention based on the needs of the individual

with an intellectual disability; and the participation of the individual with an intellectual disability in everyday community activities. Family living offers an opportunity for an individual with an intellectual disability and a family to share their lives together.

§ 6500.2. Purpose.

The purpose of this chapter is to protect the health, safety and well-being of individuals with an intellectual disability, through the formulation, implementation and enforcement of minimum requirements for family living homes.

§ 6500.3. Applicability.

(a) This chapter applies to family living homes, except as provided in subsection (f).

(b) This chapter contains the minimum requirements that shall be met to obtain a certificate of compliance. A certificate of compliance shall be obtained prior to an individual with an intellectual disability living or receiving respite care in a family living home.

(c) This chapter applies to profit, nonprofit, publicly funded and privately funded family living homes.

(d) Each agency administering one or more family living homes shall have at least a sample of their homes inspected by the Department each year. Each new family living home administered by an agency shall be inspected by the Department prior to an individual with an intellectual disability living or receiving respite care in the home. The certificate of compliance issued to an agency shall specify the location and maximum capacity of each family living home.

(e) A family living home that is not administered by an agency will be inspected by the Department each year.

(f) This chapter does not apply to the following:

(1) Private homes of persons providing care to a relative with an intellectual disability.

(2) A community home for individuals with an intellectual disability licensed by the Department in accordance with Chapter 6400 (relating to community homes for individuals with an intellectual disability).

(3) A foster family care home licensed by the Office of Children, Youth and Families of the Department that serves only foster care children.

(4) A home serving exclusively personal care home, drug and alcohol, mental health or domiciliary care residents.

(5) A home providing room and board for one or two people with an intellectual disability who are 18 years of age or older and who need a yearly average of 30 hours or less direct training and assistance per week per home, from the agency, the county intellectual disability program or the family.

(6) A home providing 90 or fewer calendar days of respite care per calendar year.

§ 6500.4. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Family living home or *home*—

(i) The private home of an individual or a family in which residential care is provided to one or two individuals with an intellectual disability, except as provided in § 6500.3(f) (relating to applicability).

(ii) The term does not include a home if there are more than two individuals, including respite care individuals, living in the home at any one time who are not family members or relatives of the family members.

(iii) If relatives of the individual live in the home, the total number of people living in the home at any one time who are not family members or relatives of the family members may not exceed four.

ISP—Individual Support Plan—The comprehensive document that identifies services and expected outcomes for an individual.

Individual—

(i) A person with an intellectual disability who resides, or receives residential respite care, in a family living home and who is not a relative of the owner of the family members.

(ii) The term does not include family members.

Intellectual disability—Subaverage general intellectual functioning which originates during the developmental period and is associated with impairment of one or more of the following:

(i) Maturation.

(ii) Learning.

(iii) Social adjustment.

Outcomes—Goals the individual and individual's plan team choose for the individual to acquire, maintain or improve.

* * * * *

GENERAL REQUIREMENTS

§ 6500.12. Waivers.

A waiver of a specific section, subsection or paragraph of this chapter may be requested by writing to the appropriate Deputy Secretary of the Department. A waiver will be considered if the following criteria are met.

(1) The waiver does not jeopardize the health, safety or well-being of any of the individuals in the home.

(2) The waiver is based on the best interests and needs of the individuals.

(3) Noncompliance with the regulation is of greater benefit to the individuals than compliance with the regulation.

(4) There is an alternative method for meeting the intent of the regulation.

(5) There are special circumstances that make this home different from other homes complying with the regulation.

(6) The waiver does not violate any other State regulation or statute.

(7) The waiver is not requested for §§ 6500.1—6500.4 (relating to general provisions).

§ 6500.20. Reporting of unusual incidents.

(a) An unusual incident is abuse or suspected abuse of an individual; injury, trauma or illness of an individual requiring inpatient hospitalization; suicide attempt by an individual; violation or alleged violation of an individual's rights; an individual who is missing for more than 24 hours or could be in jeopardy if missing at all; misuse or alleged misuse of individual funds or property; outbreak of a serious communicable disease as defined in 28 Pa. Code § 27.2 (relating to specific identified reportable diseases, infections and conditions); or an incident requiring the services of a fire department or law enforcement agency.

(b) Written policies and procedures on the prevention, reporting, investigation and management of unusual incidents shall be kept.

(c) Oral notification of the county intellectual disability program of the county in which the home is located, the funding agency if applicable, and the appropriate regional office of the Department shall be given within 24 hours after abuse or suspected abuse of an individual or an incident requiring the services of a fire department or law enforcement agency occurs.

(d) An investigation of the unusual incident shall be initiated and an unusual incident report shall be completed on a form specified by the Department. Copies of the unusual incident report shall be sent to the county intellectual disability program of the county in which the home is located, the funding agency if applicable, and the appropriate regional office of the Department, within 72 hours after an unusual incident occurs.

(e) A copy of the final unusual incident report shall be sent to the county intellectual disability program of the county in which the home is located, the funding agency if applicable, and the appropriate regional office of the Department at the conclusion of the investigation.

(f) A copy of unusual incident reports relating to an individual shall be kept in the individual's record.

(g) A copy of unusual incident reports relating to the home itself, such as those requiring the services of a fire department, shall be kept.

(h) The individual's family or guardian shall be immediately notified in the event of an unusual incident relating to the individual, if appropriate.

§ 6500.21. Reporting of deaths.

(a) A death report shall be completed on a form specified by the Department and sent to the county intellectual disability program of the county in which the home is located, the funding agency and the regional office of the Department, within 24 hours after a death of an individual occurs.

(b) An investigation shall be initiated and oral notification of the county intellectual disability program of the county in which the facility is located, the funding agency and the appropriate regional office of the Department shall be given within 24 hours after an unusual or unexpected death occurs.

(c) A copy of death reports shall be kept.

(d) The individual's family or guardian shall be immediately notified of the death of an individual.

STAFFING

§ 6500.43. Family living specialist.

* * * * *

(e) A family living specialist shall have one of the following groups of qualifications:

(1) A master's degree or above from an accredited college or university and 1 year work experience working directly with persons with an intellectual disability.

(2) A bachelor's degree from an accredited college or university and 2 years work experience working directly with persons with an intellectual disability.

(3) An associate's degree or 60 credit hours from an accredited college or university and 4 years work experience working directly with persons with an intellectual disability.

(4) A high school diploma or general education development certificate and 6 years work experience working directly with persons with an intellectual disability.

§ 6500.45. Training.

(a) The adult family member who will have primary responsibility for caring for and providing services to the individual shall have at least 24 hours of training related to intellectual disability, family dynamics, community participation, individual service planning and delivery, relationship building and the requirements specified in this chapter, prior to an individual living in the home.

(b) The primary caregiver shall be trained by an individual certified as a trainer by a hospital or other recognized health care organization, in first aid and Heimlich techniques prior to an individual living in the home and annually thereafter.

(c) The primary caregiver shall be trained and certified by an individual certified as a trainer by a hospital or other recognized health care organization, in cardiopulmonary resuscitation, if indicated by the medical needs of the individual, prior to the individual living in the home and annually thereafter.

§ 6500.46. Annual training.

(a) The adult family member who will have primary responsibility for caring for and providing services to the individual shall have at least 24 hours of training in the human services field annually.

(b) A family living specialist who is employed by an agency for more than 40 hours per month shall have at least 24 hours of training related to intellectual disability and the requirements specified in this chapter annually.

HEALTH

§ 6500.123. Refusal of treatment.

(a) If an individual refuses routine medical or dental examination or treatment, the refusal and continued attempts to train the individual about the need for health care shall be documented in the individual's record.

(b) If an individual has a serious medical or dental condition, reasonable efforts shall be made to obtain consent from the individual or substitute consent in accordance with applicable law. See section 417(c) of the Mental Health and Intellectual Disability Act of 1966 (50 P.S. § 4417(c)).

CHAPTER 6600. INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH AN INTELLECTUAL DISABILITY

§ 6600.1. Purpose.

This chapter protects the health, safety and well-being of residents living in intermediate care facilities for individuals with an intellectual disability.

§ 6600.2. Applicability.

This chapter applies to a residential facility receiving intermediate care facilities for individuals with an intellectual disability monies.

§ 6600.3. Requirements.

The Department incorporates by reference 53 FR 20494 (June 3, 1988) codified at 42 CFR 483.400—483.480 (relating to conditions of participation for intermediate care facilities for individuals with intellectual disabilities) as the licensing regulations for intermediate care facilities for individuals with an intellectual disability.

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