

Residential Treatment Facility Proposed Regulations

OMHSAS Children's Advisory Committee

January 6, 2011

Agenda

- Review of RTF regulation development process
- Overview of residential treatment facilities
- Purpose of proposed regulations
- Summary of RTF utilization and practice trends
- Review of issues raised in RTF regulation review process
- General discussion and identification of next steps

Development of RTF Regulations

- RTF Regulations have been in development since early 2006
- Meetings and discussions were held with provider organizations and advocates to gather input
- In October, 2008, a special session of the Children's Advisory Committee focused on residential services and included discussion about the major components of RTF regulations
- Draft regulations were developed in 2009
- In 2010, the DPW Secretary agreed to have the Regulations presented as proposed in Fall
- The DPW Office of Legal Counsel returned the draft regulations to OMHSAS in July, 2010
- The Children's Bureau made the changes recommended by OLC and began moving the package through the internal review process.

RTF regulation Timeline

- 30-day comment period ended 11/22/10
- Comments from IRRC 12/23/10
- Manage public comment process 4/1/11
- Meet with field or operational staff, State associations, Regulation workgroup, IRRC, House and Senate and others on specific issues (as needed) Ongoing
- Prepare draft of final-form regulation and submit to State agencies 5/1/11
- Receive comments and make necessary revisions 12/1/11
- Submit revised regulations to General Assembly, IRRC, and Attorney General 1/5/12
- PUBLICATION AS FINAL-FORM RULEMAKING IN *PENNSYLVANIA BULLETIN* 2/26/12

Evolving view of residential treatment

While RTFs represent a necessary component of the continuum of care for children and adolescent youth whose behavior cannot be managed effectively in a less restrictive setting, they are among the most restrictive mental health (MH) services provided to children and youth and, as such, should be reserved for situations when less restrictive placements are ruled out.

Building Bridges 4 Youth

- If a youth requires treatment in a 24-hour out-of-home treatment setting, it should be understood that placement occurs only for as short a period of time as is necessary, and is appropriate to meet the clinical needs of the child and family.
- Create incentives for developing more short and long term home and community services and supports that creatively rebalance, reallocate, realign, reengineer and ultimately reinvest in services to allow for youth and family choice.

Growing Understanding

- Too often children and youth are placed in RTFs because more appropriate community-based services are not available.
- Parents, judges and others desperate to meet children's needs often turn to RTFs because of a lack of viable alternatives.
- However, there is growing evidence throughout the Nation that, in many situations, children can be more effectively served in their homes and communities.

Changing the view of RTFs

- Not only does Pennsylvania have an inordinately high number of residential treatment beds, but the length of stay is greater than most other states.
- The increased clinical capacity called for by the proposed regulations will lead to reduced length of stay, and reduced recidivism.

Accreditation

- Pennsylvania is unique in that other states which have Residential Treatment require accreditation as a means of assuring quality and Medicaid financing.
- One of the aspects of the proposed regulations is that Pennsylvania will only recognize accredited organizations as RTFs.

Goals of the Proposed Regulations

- The proposed regulations bring together payment, program, and health and safety requirements into one set of regulations.
- There are numerous structural changes proposed to update the regulations and to be consistent with Medicaid requirements.

Restructuring Residential

- However the primary goal is to dramatically improve the clinical treatment in residential treatment facilities so that youth receive more effective services.
- The proposed regulations will restructure the way Pennsylvania uses residential treatment.

Regs in Context

- Integrated Children's Services Initiative
- Development of Evidence Based Practices
- High Fidelity Wraparound
- National Governor's Association initiative
- Trauma Informed Care
- Sanctuary

Changes are becoming evident

- In Fiscal Year 2008-09, there were expenditures of \$218 million in accredited facilities and \$44 million in non-accredited facilities in Pennsylvania.
- As a result of numerous developments, including the initiation of evidenced based community services, there has been a decline of \$25 million in RTF spending since FY 2006-07.

Residential Initiatives

- In 2005 and 2006, OMHSAS produced a white paper summarizing best practices which highlighted concerns about overreliance on residential treatment.
- Subsequent review in 2006 and 2007 led to the formation of the joint OCYF/OMHSAS/DPW Continuum of Care workgroup, which began meeting in late 2007 to align OCYF and OMHSAS activities and support DPW's goal of reducing use of residential treatment by 50%.

Recommendations from Continuum of Care workgroup:

- Reduce excess RTF capacity (with focus on non-accredited)
- Improve quality of RTF services (focus on RTF regulations), including addressing possibility of raising per diem rates for RTF services
- Build community-based alternatives
- Develop high-fidelity wraparound (HFW) targeting children and youth using RTF services
- Help RTF providers improve continued RTF capacity and convert capacity to more needed modalities
- **Bottom line: Need to change the way RTF services are provided in Pennsylvania to be youth- and family-driven**

Overview of key statewide reform initiatives

- The interagency planning efforts to reform and improve the juvenile justice system, including the Commonwealth's involvement in the MacArthur Foundation's Models of Change initiative through the Pennsylvania Commission on Crime and Delinquency.
- The work of the OCYF, through the National Governor's Association Policy Academy's foster care initiative, that has focused on reforms in the foster care system and the promotion of research-based practices.

More Efforts

OCYF's and OMHSAS's efforts to broaden access to evidence-based practices for youth with behavioral health (BH) needs in the child welfare and juvenile justice systems and their families, including OCYF set-aside funding to develop and implement Multisystemic Therapy (MST), Functional Family Therapy (FFT), and Multidimensional Treatment Foster Care and ongoing HealthChoices funding for enrollees in need of such services.

Overview of key statewide reform initiatives

- The Integrated Children's Services Planning process, which provides the framework for ongoing county planning across BH, child welfare, juvenile justice, education and community partners to coordinate their child and family services across agencies and funding streams.
- OMHSAS' participation in the Trauma Informed Care Cross-Systems Collaboration has catalyzed promotion of trauma-informed models statewide, and, in partnership with OCYF, implemented the sanctuary model of trauma informed care in 29 residential program sites (with a combined total of 2,397 beds).

Autism Development

- Under the lead of the DPW Bureau of Autism Services (BAS), there is increasing use of research-based approaches for young children with autism spectrum disorder and improved assessment through standardized requirements and training, using functional behavioral assessments.
- Over 4,000 providers have received training through BAS and managed care organizations.

High Fidelity Wraparound

- The initial establishment of HFW with a goal of preventing or shortening the residential placement and other intensive service use of Pennsylvania's highest needs youth.
- OMHSAS worked with Mercer to develop a Medicaid-based funding approach for HFW to support its dissemination more broadly.
- Currently, nine counties are involved in implementing HFW, with nearly 300 youth and families being served.
- Initial indications are that counties who targeted youth diverted from residential care are experiencing significant case-level cost effectiveness.

System of Care

Pennsylvania was awarded a federal grant to develop a statewide infrastructure in support of Systems of Care in October 2009.

- Focus on serving youth with serious MH needs and their families with particular emphasis on youth involved with the child welfare or juvenile justice systems and currently residing in, or at risk of, out-of-home placement.
- The \$9 million grant from the federal Substance Abuse and Mental Health Services Administration covers six years and will be implemented in 15 Pennsylvania counties.

Review of Data

Utilization trends – 2005 to 2007

- In 2009, Mercer reviewed available data regarding the needs of youth and utilization trends for RTF services (both accredited and non-accredited) provided by the Commonwealth's top 15 counties in terms of RTF use.
- Focus was on the most recent available utilization data: Calendar years 2005, 2006 and 2007.
- Use in these 15 counties accounted for approximately three-quarters of accredited RTF users in 2006.

Utilization trends – 2005 to 2007

Level of Analysis	Providers Used			Total Admissions			Median LOS (2005)	2005 LOS - Percent by Day Range			
	2005	2006	2007	2005	2006	2007		Under 90	90 to 365	Over 365	Over 730
All RTF Use	79	80	77	3,317	4,021	3,086	204	23.6	53.1	23.3	6.2
Accredited	65	61	58	2,504	2,778	2,410	206	23.2	52.8	24.1	6.2
Non-Accredited	34	35	26	813	1,243	676	194	24.8	54.2	20.9	6.2
All Out-of-State	15	18	17	241	185	229	290	14.1	50.6	35.3	8.3

Level of Analysis	2007 Age Range (%)			2007 Gender (%)		2007 Race / Ethnicity (%)				2007 CISC (%)	
	Under 12	12-17	Over 17	M	F	Afr. Amer.	Hispanic	Other	White	Yes	No
All RTF Use	10.4	85.0	4.6	65.8	34.2	47.1	7.2	2.6	43.1	53.8	46.2
Accredited	12.4	84.1	3.4	60.0	40.0	43.4	6.9	2.9	46.8	49.9	50.1
Non-Accredited	3.4	87.9	8.7	86.5	13.5	60.4	8.3	1.5	29.9	67.5	32.5
All Out-of-State	2.2	89.1	8.7	51.5	48.5	69.4	5.7	3.1	21.8	78.6	21.4

Changes in numbers of RTF beds:

- Fall 2007: 3,223 accredited beds
- Fall 2008: 3,038 accredited beds; 1,309 non-accredited beds
- Fall 2010: 2,363 accredited beds; 830 non-accredited beds

Residential and Community Services Trends

Service recipients – Children under age 21

Category of service	SFY 2006 – 07 total	SFY 2007 – 08 total	SFY 2008 – 09 total
RTF-accredited	5,058	4,652	4,209
RTF-non-accredited	1,593	1,322	1,298
Other BHRS (including evidence-based supports such as MST and FFT)	44,557	46,244	49,838
Crisis intervention with in-home capability	4,908	7,224	8,238
FBMHS for children and adolescents	6,572	8,206	9,047
Targeted MH case management intensive case management and resource	15,242	18,483	20,179
SUD services	10,749	12,216	13,380
Total unduplicated count of children served	149,651	157,372	168,555

Residential treatment and community expenditures

Category of service	SFY 2006 – 07 total	SFY 2007 – 08 total	SFY 2008 – 09 total
Inpatient psychiatric	\$101,070,885	\$106,891,183	\$113,821,509
Outpatient psychiatric	\$121,427,620	\$131,683,700	\$146,727,417
RTF-accredited	\$239,210,127	\$233,523,265	\$217,707,998
RTF-non-accredited	\$48,582,516	\$41,908,397	\$43,575,354
Ancillary support	\$1,151,770	\$777,812	\$706,465
Other services	\$16,200,439	\$21,495,496	\$24,644,137
BHRS total	\$575,421,059	\$582,268,839	\$617,371,827
TSS	\$303,880,602	\$281,977,537	\$274,563,811
Mobile therapy	\$54,068,285	\$54,829,517	\$61,327,568
Behavioral specialist consultant	\$105,084,411	\$107,028,787	\$117,199,414
Other BHRS (including evidence-based supports such as MST and FFT)	\$112,387,760	\$138,432,998	\$164,281,034
Crisis intervention with in-home capability	\$1,465,434	\$1,719,868	\$1,884,942
FBMHS for children and adolescents	\$62,024,650	\$77,386,688	\$88,848,260
Targeted MH case management intensive case management and resource	\$32,386,711	\$40,545,341	\$44,152,109
SUD services	\$19,670,407	\$21,383,822	\$25,548,130

Major Components of Proposed Regulations

- Increased staff to resident ratio and higher staff qualifications in order to enhance the quality of care.
- Accreditation by an independent accrediting body.
- Paid family advocate.
- Family participation requirements.
- Enhanced rules for storage and administration of medications.
- Standards to limit the use of restrictive procedures.
- A maximum capacity of 4 units of 12 beds each for a total of 48 beds.
- 8 bed non-accredited facilities that are not located on a larger campus can become licensed as a Community Residential Rehabilitation Group Homes.

Comments on proposed regulations

Forty nine sets of comments, over 1,280
specific comments, covering 166 pages

Forty-eight bed overall cap and 12 bed unit cap

- Affects 17 of 87 accredited and four of 18 non-accredited facilities
- Stems from recommendations from research and stakeholders favoring smaller facilities and units
- There is a tremendous level of scrutiny by the Center for Medicaid and Medicare Services (CMS) on psychiatric RTF care and rules on counting beds within facilities

Individual Approach

OMHSAS is prepared to work with each of the non-accredited facilities, along with the counties/Behavioral health Managed Care organizations, to develop smooth transition plans.

Major issues raised include (cont'd):

– Staffing ratios

- Goal was to increase clinical staffing and reduce caseloads in accord with research, expert input and stakeholder input.
- OMHSAS recognizes that daily rates may increase, but also assumes that quality will increase and LOS decrease accordingly.
- Will also require use of High Fidelity Wraparound and community-based alternatives to reduce inappropriate use of RTF care.

– Restrictions on paying for therapeutic leave

- Current limit is unsupportable.
- OMHSAS working with Mercer to address appropriate payment for needed transitions, but federal provisions are a complicating factor.

Developmental Disability

Questions about children with primary developmental disability – this cannot be sole focus of the facility or treatment without Intermediate Care Facility – Mental Retardation (ICF-MR) requirements applying

Cost Concept

- The regulations will result in an increase in per diem rates because of increased clinical care requirements.
- Evidence shows that when youth receive effective treatment, there will be reduced lengths of stay.
- The system-wide reduction in lengths of stay will offset the costs of enhanced treatment.

Continued Dialogue

- The Children's Bureau will be working with stakeholder groups to address the comments and to revise the proposed regulations
- Our goal is to identify what can be done to get the best possible set of regulations,
- And the best outcome for youth and families.