

Understanding Regulations, Bulletins, and Policy Clarifications

An Overview

REGULATIONS

- Regulations are program requirement documents which require a formal legal review and approval process as defined by state law.
- Approved regulations are “codified” (systematically coded and included) in the Pennsylvania Code. The Department of Public Welfare is identified under Title 55 of the Pennsylvania Code.
- OMHSAS regulations may be mandated in response to federal or state law.
- Current OMHSAS regulations generally are included under the authority of the MH/MR Act of 1966, the MH Procedures Act of 1978, or Public Welfare Code 62P.S.
- The Mental Health Regulations that OMHSAS has authority for are generally related to licensing and program operation standards. Medical Assistance (MA) regulations, which are currently under the authority of the Office of Medical Assistance Programs (OMAP), are generally MA payment regulations. These include MA regulations for Outpatient and Inpatient Psychiatric Services.
- Program Offices would involve stakeholders in the development process for a new regulation or revision to an existing regulation. For example, when the Psychiatric Outpatient Clinic Regulations (Chapter 5200) are revised, OMHSAS will convene a stakeholder workgroup to identify areas that require changes to the existing regulations and develop additional requirements if necessary. The Chapter 1153 MA Outpatient Psychiatric Services regulations will need to be reviewed as well to ensure that any changes made to Chapter 5200 do not conflict with Chapter 1153.
- There is a very formal review process which includes a public comment period when new or revised regulations are published in the PA Bulletin.
- All formal comments received must be responded to by the office that submitted the new or revised regulations. (The office may accept the

comment and incorporate any necessary changes, or not accept the comment and provide the reason(s) why a change will not be made).

- When regulations are submitted to the Independent Regulatory Committee (IRCC) for final approval, the regulations are published for a second time in the PA Bulletin, along with responses to any comments received.
- Regulations are enforceable by law.

BULLETINS

- Bulletins are formal documents issued by the program office (such as OMHSAS) that transmit information, make announcements, transmit a regulation interpretation, or issue a policy guideline to affected individuals and organizations outside the Department.
- A bulletin is a public document.
- There are 3 classes of bulletins which require different levels of review.
 - Class 1 bulletins are the most common and do not require publication in the PA Bulletin and Codification in the PA Code. OMHSAS seeks input from executive staff members, workgroups, and/or the OMHSAS Advisory Committees, as needed, on Class 1 bulletins that present new information.
 - Class 2 and 3 bulletins are considered to be statements of policy and require publication in the Pennsylvania Bulletin and codification in the Pennsylvania Code (similar to regulations; however a formal comment period is not required). Community participation in the bulletin development process is at the discretion of the program office; however, it is the policy of OMHSAS to include community participation in the development and review of Class 2 and 3 bulletins.

POLICY CLARIFICATIONS

- Policy Clarifications provide for further explanation to already existing policies found in regulations, bulletins, and other standards such as the HealthChoices Program Standards and Requirements.

- In OMHSAS, policy clarifications are most commonly used in the HealthChoices Program to provide clarification to questions related to standards and requirements of the HealthChoices Behavioral Health Program.
- The clarifications are provided by a team from OMHSAS and sometimes other program offices, if the clarification affects another program office. On occasion the legal office reviews and approves.
- There are also general policy clarifications that are issued for a particular service typically regarding operational issues.
- Policy clarifications are not intended to add or change existing policies, but are intended to further explain an existing policy.
- Since OMHSAS is responsible for interpreting existing OMHSAS policies, stakeholder input is not solicited for policy clarifications.
- OMHSAS policy clarifications are sent to the OMHSAS Policy Clarification Team for review and comment.