

ments imposed a requirement that sources and facilities emitting volatile organic compounds (VOC) and oxides of nitrogen (NO<sub>x</sub>) determine if they are major stationary sources (MSS) of VOC or NO<sub>x</sub>, or both. If a facility is a MSS, it must develop and submit a Reasonably Available Control Technology (RACT) proposal to the Department and to the Environmental Protection Agency (EPA) for approval. The proposed amendments are applicable to sources and facilities for which the EPA has not issued control techniques guidance (CTG) documents. After the Department approves the RACT proposal, the facility must implement the RACT program as expeditiously as possible but not later than May 31, 1995. The requirement that MSSs implement RACT is mandated by section 182(b)(2) and (f)(1) of the Clean Air Act (42 U.S.C.A. §§ 7511(b)(2) and (f)(1)) for NO<sub>x</sub> and VOC.

In response to comments received during the official public comment period on the proposed rulemaking and following the Department's review of other related information, the Department has prepared a draft final regulation for public comment. The draft final regulation contains significant changes in three major areas: the inclusion of a presumptive RACT definition for NO<sub>x</sub> for smaller facilities; a requirement to implement RACT prior to EPA approval; and deletion of specific emission limitations related to wood cabinet and furniture finishing stains. While there is no legal requirement to provide an opportunity to comment upon the Department's recommendations for final rulemaking, the Department believes further discussion would serve the public interest in this instance.

A copy of the draft final regulations, including a summary of the draft amendments, is available by contacting the Bureau of Air Quality Control, P. O. Box 8468, Harrisburg, Pa. 17105-8468. Written comments on the draft final regulations must be received by June 1, 1993; no telefax comments will be accepted. Comments or requests for copies should be addressed to or delivered to Wick Havens, Bureau of Air Quality Control, P. O. Box 8468, Harrisburg, Pa. 17105-8468, (717) 787-4310.

ARTHUR A. DAVIS,  
*Secretary*

[Pa.B. Doc. No. 93-919. Filed for public inspection April 30, 1993, 9:00 a.m.]

## DEPARTMENT OF LABOR AND INDUSTRY

[34 PA. CODE CHS. 9 AND 211]

### Prevailing Wages

The Department of Labor and Industry hereby grants a request to extend the public comment period for the proposed rulemaking published at 23 Pa.B. 1460 (March 26, 1993) by extending the closing date for receipt of comments from April 26, 1993, to May 26, 1993.

Interested persons are invited to submit comments, suggestions or objections in reference to this proposed rulemaking to Roger C. Bitzel, Director, Prevailing Wage Division, 1301 Labor and Industry Building, Seventh and

Forster Streets, Harrisburg, Pa. 17120, (717) 787-4763, on or before May 26, 1993.

THOMAS P. FOLEY,  
*Secretary*

[Pa.B. Doc. No. 93-920. Filed for public inspection April 30, 1993, 9:00 a.m.]

## DEPARTMENT OF PUBLIC WELFARE

[55 PA. CODE CH. 5260]

### Family Based Mental Health Services for Children and Adolescents

#### *Statutory Authority*

The Department of Public Welfare (Department), under the authority of Article IX of the Public Welfare Code (62 P.S. §§ 901-922) intends to adopt the proposed regulations set forth in Annex A.

#### *Background*

The purpose of these proposed regulations is to establish requirements for the certification, enrollment, delivery of services and payment of Family-Based Mental Health Services for Children and Adolescents (FBMHS). This is a team delivered service rendered in the home and community which is designed to integrate mental health treatment, family support services and casework so that families may continue to care for their children and adolescents with a serious mental illness or emotional disturbance at home. The service reduces the need for psychiatric hospitalization and out-of-home placement by providing a service which enables families to maintain their role as the primary caregiver for their children and adolescents.

Children and adolescents with serious mental illness or emotional disturbance are an underserved population. Because of limitations imposed by Federal Medicaid funding, most mental health treatment services are restricted to hospitals, clinics and other licensed facility sites. These providers require children and adolescents to go to the provider's facility for services and they provide very limited collateral services for the parents or other family members of the child or adolescent who is being treated. FBMHS is a service which has been developed on principles and objectives developed by the Child and Adolescent Service System Program (CASSP) to recognize that children and adolescents are a part of the family unit and that parents are the primary caregivers for their children and adolescents. FBMHS are provided to the child, adolescent and family in their natural setting. The structure of the service is to develop a milieu which will be supportive and caring for the child or adolescent after FBMHS is ended.

The Department has contracted through county mental health/mental retardation administrators (county administrators) with selected providers for FBMHS for 3 years using State funds. A Pennsylvania Medicaid State Plan Amendment has been approved, effective July 1, 1990, which permits Federal financial participation for FBMHS provided to eligible individuals under conditions of the amendment. The conditions contained in the amendment are included in these proposed regulations. FBMHS are

approved for individuals under 21 years of age as an Early and Periodic Screening, Diagnosis and Treatment (EPSDT) service under Federal regulation at 42 CFR 441, Subpart B, and as a rehabilitative service at 42 CFR 440.130(d). These proposed regulations will also foster Statewide application and uniformity of service as required under Medicaid.

These proposed regulations promote the Department's goal of developing a unified mental health system consisting of a continuum of community mental health services administered by the counties. Counties shall identify FBMHS providers in their county plan and the county administrator shall authorize the payment of services. County administrators shall also assure the availability of the State match when Medicaid is billed. The county administrator is thus identified as the point of accountability for consumer services and financial decision making.

#### *Summary*

##### *General Provisions*

#### *Scope (§ 5260.1)*

This proposed section identifies recipients of the service as children and adolescents under 21 years of age with a serious mental illness or emotional disturbance who are at risk of psychiatric hospitalization or out-of-home placement, and their families. The proposed regulation is applicable to county administrators and providers approved by the county administrator and the Department's Office of Mental Health to provide FBMHS.

#### *Objectives (§ 5260.2)*

This proposed section identifies the primary goal of the service as enabling parents to care for their children and adolescents who are seriously mentally ill or emotionally disturbed at home and reduce the need for out-of-home placements. Related objectives are to strengthen and maintain the family, improve coping skills, teach family members to care for the child or adolescent and to serve as an advocate for the child or adolescent. The service seeks to serve families who are unwilling or unable to participate in traditional outpatient services and to establish transitions to services that will provide support after FBMHS are ended.

#### *Definitions (§ 5260.3)*

This proposed section defines terms used in the regulations. The definitions are consistent with those in Chapter 5221 (relating to mental health intensive case management) and other chapters of the mental health regulations.

#### *Provider participation (§ 5260.11)*

This proposed section establishes licensing requirements for providers. Providers shall be included in a county plan approved by the Department and they shall be enrolled by the Department's Office of Mental Health with the Office of Medical Assistance Programs by the end of the first year of funding. Providers shall abide by Chapters 20 and 1101 (relating to licensure or approval of facilities and agencies; and general provisions) and the Medical Assistance Provider Agreement. This proposed section also establishes a process whereby sections of this chapter may be waived for a limited time. Waivers may not adversely affect the quality of services or the rights of the consumer family.

#### *Consumer eligibility (§ 5260.12)*

This proposed section establishes that children and adolescents and their families are eligible for FBMHS if a

child or adolescent has a mental illness or emotional disorder and is determined to be at risk for out-of-home placement. A determination of eligibility and recommendations for treatment shall be made by a licensed physician or licensed psychologist prior to the initiation of services, and at least one adult member of the family shall agree to participate in the service. To provide fiscal accountability as well as meet the medical necessity, provision of the service shall be authorized by the county administrator or designee within 20 days of the initial date of service. A service period is 32 weeks, but additional periods of service may be provided if medically necessary, based upon an updated recommendation by a licensed physician or licensed psychologist. Reauthorization by the county administrator or designee is also required. If other child caring agencies are involved with the consumer child or adolescent, there shall be a consensus that FBMHS is needed, and a jointly developed treatment plan outlining each agency's responsibility shall be developed within 30 days of the initial date of FBMHS.

##### *Structure and Organization*

#### *Organizational requirements (§ 5260.21)*

This proposed section provides that FBMHS shall be organized separately. The administrative head of the service is a director, who may also supervise a Family Preservation Program, which is a closely related service funded by the Department's Office of Children, Youth and Families. Services are provided by a team consisting of a children's mental health professional and a children's mental health worker or two children's mental health professionals. Additional staff persons possessing lesser qualifications may provide support services but not treatment. Each team may serve a maximum caseload of eight consumer families at a time, and it shall have a minimum of one face-to-face consumer family contact per week. Services shall be available 24 hours, 7 days a week, and contacts shall be regularly scheduled as well as available when needed. To maintain the integrity of the service, the director and members of the treatment team may not be employed by another mental health service provider. If the director also supervises a Family Preservation Program, costs must be pro rated.

#### *Relationship to other parts of the system (§ 5260.22)*

Although FBMHS is intended to be an intensive and comprehensive service, this section recognizes that the child or adolescent who is identified as the consumer may have been involved in ongoing intensive case management services and psychiatric partial hospitalization service which may continue during FBMHS. There may also be a need for professional services not available from the treatment team, such as psychiatric clinic medication visits, inpatient services and crisis intervention services which cannot be provided by the treatment team. Providers shall have written agreements with other child serving agencies and frequently used community contacts to ensure a cooperative effort in serving consumer families and to facilitate continuity of care.

#### *Staff requirements (§ 5260.23)*

Staff persons shall have a background check and clearance as required by 23 Pa.C.S. Chapter 63 (relating to the Child Protective Services Law) before they may provide service. This proposed section also sets forth the education and experience required for the position of director, children's mental health professional and children's mental health worker. To be as flexible as possible and to take advantage of the experience some

individuals have had in working with children, adolescents and families, several acceptable combinations of education and experience are given for each position. These standards are based on civil service requirements but are specific to FBMHS. In a situation in which the program director lacks a graduate degree in a field of human services, the services of a professional may be obtained as a clinical consultant to provide clinical support for treatment teams at the minimum rate of 3 hours of service per week for the first team plus 1 hour per week for each additional team. To discourage a situation wherein a clinical director may have less academic credentials than mental health professionals whom the director supervises, the arrangement to secure a clinical consultant shall be reviewed and reauthorized annually by the Department, and the clinical consultant may not provide direct FBMHS for the provider. This section also provides that staff persons may obtain additional qualifications for advancement by obtaining certification through special Departmentally-offered programs or from the American Association of Marriage and Family Therapists. Finally, the proposed section provides that the program director shall have a supervisory meeting with each team at least once a week.

#### *Responsibilities*

##### *Responsibilities of providers (§ 5260.31)*

This proposed section sets forth the responsibilities of providers. They shall abide by the regulations proposed in Appendix A and other applicable laws and regulations, especially Chapter 1101 and Chapter 4300 (relating to County Mental Health and Mental Retardation Fiscal Manual). Providers are responsible for overall supervision of the service to see that it implements the program's objectives. Consumers and their families shall be informed of their rights, encouraged to participate in the service and be told how 24-hour, 7-day-a-week service availability is provided. Providers shall abide by provisions of the county plan, require staff persons to attend appropriate training on a regular basis and as required by the Department. Finally, reports shall be submitted in a timely manner.

##### *Responsibilities of county administrators (§ 5260.32)*

This proposed section sets forth responsibilities of county administrators. They shall make annual reviews to verify that providers comply with regulations and the provisions of the county plan. They shall provide reports required by the Department. They shall certify that State matching funds are available for Medicaid compensable services and authorize payment for the provision of FBMHS, and they shall notify the Department if the periods of FBMHS are extended.

#### *Record and Payment Requirements*

##### *Recordkeeping (§ 5260.41)*

This proposed section establishes requirements for the organization and maintenance of records. FBMHS records shall be identified and maintained apart from other records. Written procedures and records shall be kept in accordance with Departmental regulations as set forth in Chapters 1101 and 4300 and Appendix A, and as otherwise required by the Department. Records shall be maintained for 4 years or until the consumer is 21, whichever is longer, in order for the records to be available to the child serving system.

##### *Record contents (§ 5260.42)*

The minimum contents for records are enumerated in this proposed section. Records shall include identifying

information for the consumer child or adolescent and all other members of the consumer family. Records shall show the referral source, the physician or psychologist's recommendation for service, the presenting problems, a diagnosis and evaluation of the child or adolescent and identification of the qualified professional who made the diagnosis. There shall be a medical, social and developmental history of the consumer which includes a current physical examination and the roles of other members of the consumer family. A treatment plan with updates showing the responsibilities of each team member shall be shown. There shall also be entries and progress notes for every contact, signed by the responsible staff person providing the service. These progress notes shall record all changes in a consumer family's progress, including admission and discharge, detailing cause and projected outcome. Referrals shall be shown with the name of the person contacted and projected outcome. The discharge summary shall include an aftercare plan.

##### *Treatment plan (§ 5260.43)*

This proposed section repeats many of the requirements for record content, but it is specific to the formation of an ongoing treatment plan. In addition to requiring the basic information of a diagnosis, current physical examination and a family profile and evaluation, there is an added requirement that all eligible individuals and their parents are informed about the benefits of participation in the Medical Assistance Early and Periodic Screening, Diagnosis and Treatment Program. This proposed section requires that the treatment plan shall establish specific goals for each family member and that the plans shall be prepared and reviewed with the participating family members, including the consumer as is age and functionally appropriate. Progress notes shall record the delivery of services and show how the services relate to the attainment of specific goals. The initial plan shall be reviewed and approved by the program director and clinical consultant, if required, within 5 days of the initial service and be reviewed and updated at least once a month.

##### *Policies and procedures (§ 5260.44)*

This proposed section requires a current, written policy and procedure manual detailing the provider's intake and termination policy and procedures, the services provided and provisions for continuity of care after termination.

##### *Payment (§ 5260.45)*

This proposed section provides the basic conditions for payment of FBMHS. This proposed section is intended to encourage the provision and use of the service because it is intended to be both salutary and cost effective. This proposed section provides that consumers and their families do not pay either Medical Assistance copayment charges or Mental Health liability charges for the service. The counties are also free from the 10% match payment requirements. FBMH services shall be charged to the account of the consumer. If the identified consumer in a family is eligible for Medicaid, Medicaid shall be billed. This proposed section includes Federal requirements that Medicaid cannot be billed for room and board. Services provided while a consumer is hospitalized cannot be submitted until the consumer is discharged and returns to FBMHS. If necessary, however, this section provides that State funds may be used to pay for room and board. This proposed section also provides an assurance that no eligible consumer may be denied FBMHS solely because the consumer is ineligible for Federal reimbursement of services. Indirect FBMH services may not be billed but may be included in the rate. Travel

which is directly related to a billable service may be billed as a part of the service. A unit of service is a quarter hour or major portion thereof in which a team member is providing a direct service, face-to-face or by telephone, with a member of the consumer family or other essential person or contact required to meet specific treatment goals. This proposed section requires that the procedures set forth in § 1150.82 (relating to payment levels) will be used to establish provider specific fees for FBMHS and that rates will be reevaluated yearly.

#### *Reconciliation of costs (§ 5260.46)*

Because payments are cost based, this proposed section requires providers to reconcile estimated costs with actual expenditures annually, using procedures prescribed by the Department.

#### *Quality assurance and utilization review (§ 5260.47)*

This proposed section provides that the quality of services are to be ensured by written procedures and standards which include clinical case reviews, periodic staff conferences, written utilization review documentation, required attendance at training and other oversight. Services are subject to review by the Department and appropriate agencies as provided in §§ 1101.71-1101.75 and by authorized agents of the county government.

#### *Consumer Family Rights*

##### *Participation and freedom of choice (§ 5260.51)*

This proposed section requires a written policy assuring consumers and their families freedom of choice as required by Federal regulations. This proposed section also provides that an individual may refuse to participate in FBMHS without prejudice to other parts of the treatment program. This proposed section, in accordance with sections 201 and 204 of the Mental Health Procedures Act (50 P. S. §§ 7201 and 7204) provides that a parent shall act on behalf of a child under 14 years of age but that individuals 14 or older may act independently, provided that parents are notified that they have the right to appeal.

##### *Confidentiality (§ 5260.52)*

This proposed section provides an assurance of confidentiality to all persons receiving FBMHS.

##### *Nondiscrimination (§ 5260.53)*

This proposed section provides that providers may not discriminate against staff persons or consumer family members in violation of their civil rights.

##### *Right of appeal (§ 5260.54)*

This proposed section provides a right of appeal for consumers accused of misutilization or abuse and for individuals who have been terminated from participation in FBMHS.

##### *Affected Organizations and Individuals*

These proposed regulations allow for the expansion of an innovative, in-home service for individuals under 21 years of age who have a serious mental illness or emotional disturbance. The service has been provided under contract and has proven effective. The service treats the consumer and the family as a unit in their natural setting. In drawing Federal Medicaid funding for the service, new providers will be attracted and county administrators will be required to assume greater responsibilities of fiscal and programmatic oversight. The Department will be affected since there is an additional

need for licensing activities, Medical Assistance enrollment and claims processing, and Office of Mental Health oversight.

#### *Accomplishments/Benefits*

The proposed regulations establish Statewide requirements for the service to provide quality services to children and adolescents in need of mental health treatment and their families. It furthers the objectives of the CASSP to strengthen the family unit and coordinate the child service community network to prevent costly and disruptive out-of-home placements. The proposed regulations implement a Medicaid State Plan Amendment to draw Federal financial participation. This will permit expansion of this needed service for children and adolescents.

#### *Fiscal Impact*

##### *Public Sector*

##### *Commonwealth*

The cost to the Commonwealth for FY 1990-91 is \$4,941,667; FY 1991-92 is \$5,841,667; and for FY 1992-93, \$7,361,817.

##### *County Government*

There will be no cost to the counties. The administrative expenses incurred by the counties are an allowable cost that may be incorporated in the rate, if the county is a provider. If the county is not a provider, it may claim Medicaid administrative costs and also use its allocation of State funds.

##### *Private Sector*

There will be no cost to providers. Payment rates will be negotiated by the county administrator, subject to approval by the Department. The Department expects providers to negotiate a rate that meets their costs. Providers may submit revised rates for approval.

Private insurers may pay for the service to reduce costly out-of-home psychiatric services.

##### *General Public*

There is no cost to members of the general public.

##### *FBMHS Paperwork Requirements*

The county FBMHS paperwork requirements are outlined as follows. The county administrator identifies FBMHS providers by including them in the County Human Services Plan. They then negotiate a county developed contract with the provider. The county has the provider complete the rate setting package in accordance with Chapter 4300 (relating to fiscal regulations) reviews it, and forwards it to the OMH Area Office for approval. The county is responsible for the amount of State dollars spent as well as to acknowledge State dollars spent to draw down Federal dollars by signing the State Match Verification Form. Counties may choose to claim administrative costs at a reimbursement rate of 50% by completing the FBMHS Administrative Cost Report form. Counties shall assure provider audits are completed annually. Counties shall also assure required Consolidated Community Reporting (CCR) System information and required data are accurate and complete when submitted to OMH.

Provider agency paperwork requirements include the documentation of service via a progress note format of choice. A service log is available to ease documentation into a billing format for invoicing but is optional. Billing forms include the MA 319 Medical Services Invoice and State match verification form which is used by the provider and county to document the amount of State

money used as match for the Federal dollars obtained through the Medical Assistance Management Information System. Forms described in these proposed regulations are available through the county offices or the Department of Public Welfare.

*Effective Date*

These proposed regulations will become effective upon publication in the *Pennsylvania Bulletin* in final form.

*Sunset Date*

There is no sunset date for these proposed regulations. The Department will monitor as well as oversee the service and it will be reviewed by the CASSP Advisory Committee, the Mental Health/Mental Retardation Advisory Committee and other interested groups.

*Public Hearing*

There are currently no plans to hold public hearings.

*Public Comment Period*

Interested persons are invited to submit suggestions or objections regarding the proposed regulations to the Department of Public Welfare, Connie Dellmuth, Chief, Bureau of Children's Services, P. O. Box 2675, Harrisburg, Pa. 17105, (717) 787-6443 within 30 days after the date of publication of this notice of proposed rulemaking in the *Pennsylvania Bulletin*. All comments received within 30 calendar days will be reviewed and considered in the preparation of the final regulations. Comments received after the 30-day comment period will be considered for any subsequent revisions of these regulations.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the agency submitted a copy of these proposed regulations on April 16, 1993, to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Health and Welfare and the Senate Committee on Public Health and Welfare. In addition to submitting the proposed regulations, the agency has provided IRRC and the Committees with a copy of a detailed regulatory analysis form prepared by the agency in compliance with Executive Order 1982-2, "Improving Government Regulations." A copy of this material is available to the public upon request.

If IRRC has any objections to any portion of the proposed regulations, it will notify the agency within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the proposed regulations, by the agency, the General Assembly and the Governor if objections are raised.

KAREN F. SNIDER,  
*Secretary*

**Fiscal Note:** 14-401. (1) General Fund; (2) Implementing year 1990-91 is \$4,942,000; (3) 1st succeeding year 1991-92 is \$5,842,000, 2nd succeeding year 1992-93 is \$7,362,000, 3rd succeeding year 1993-94 is \$7,362,000, 4th succeeding year 1994-95 is \$7,362,000, 5th succeeding year 1995-96 is \$7,362,000; (4) FY 1991-92: \$176,048,000, FY 1990-91: \$163,719,000, FY 1989-90: \$157,193,000; (7) Community Mental Health Services; (8) recommends adoption. These services have been provided since 1990-91. Therefore, funds are already included in the budget for this purpose.

Annex A

TITLE 55. PUBLIC WELFARE

PART VII. MENTAL HEALTH MANUAL

Subpart D. NONRESIDENTIAL AGENCIES/FACILITIES/SERVICES

CHAPTER 5260. FAMILY BASED MENTAL HEALTH SERVICES FOR CHILDREN AND ADOLESCENTS

GENERAL PROVISIONS

- Sec. 5260.1. Scope.
- 5260.2. Objectives.
- 5260.3. Definitions.

GENERAL REQUIREMENTS

- 5260.11. Providers participation.
- 5260.12. Consumer eligibility.

STRUCTURE AND ORGANIZATION

- 5260.21. Organizational requirements.
- 5260.22. Relationship to other parts of the system.
- 5260.23. Staff requirements.

RESPONSIBILITIES

- 5260.31. Responsibilities of providers.
- 5260.32. Responsibilities of county administrators.

RECORD AND PAYMENT REQUIREMENTS

- 5260.41. Recordkeeping.
- 5260.42. Record contents.
- 5260.43. Treatment plan.
- 5260.44. Policies and procedures.
- 5260.45. Payment.
- 5260.46. Reconciliation of costs.
- 5260.47. Quality assurance and utilization review.

CONSUMER FAMILY RIGHTS

- 5260.51. Participation and freedom of choice.
- 5260.52. Confidentiality.
- 5260.53. Nondiscrimination.
- 5260.54. Right of appeal.

GENERAL PROVISIONS

§ 5260.1. Scope.

This chapter establishes minimum standards for the provision of Family-Based Mental Health Services for children and adolescents under 21 years of age with a serious mental illness or emotional disturbance who are at risk of psychiatric hospitalization or out-of-home placement, and their families. It is applicable to county administrators and to providers approved by county administrators and the Office of Mental Health to provide Family-Based Mental Health Services for Children and Adolescents.

§ 5260.2. Objectives.

The primary goal of Family-Based Mental Health Services is to enable parents to care for their children who are seriously mentally ill or emotionally disturbed at home and to reduce the need for child and adolescent out-of-home placements. Related objectives are to strengthen and maintain families by means of therapeutic intervention, improve coping skills, teach family members to care for the child or adolescent and serve as an advocate for the child or adolescent. Family-Based Mental Health Services provide access to mental health treatment services for family members who may be unable or unwilling to participate in traditional outpatient programs. Finally, it provides transition to agencies and practitioners in the community who will provide services and support for the family and child or adolescent after Family-Based Mental Health Services are ended.

### § 5260.3. Definitions.

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

*Adolescent*—An individual 14 years of age or older and under 21 years of age.

*Child*—An individual under 14 years of age.

*Consumer*—The child or adolescent who is identified as the primary recipient of Family-Based Mental Health Services for purposes of determining eligibility, recordkeeping and billing.

*Consumer family*—The consumer and the members of the consumer's family who are participating in a Family-Based Mental Health Services program.

*County administrator*—The mental health/mental retardation administrator who has jurisdiction in the geographic area.

*County plan*—The County Human Services Plan which includes the target population, service needs, program planning, an estimate of revenues and expenditures and specifically describes how Family-Based Mental Health Services will be made available, including the anticipated expenditures for the services.

*Department*—The Department of Public Welfare of the Commonwealth.

*EPSDT—Early and periodic screening, diagnosis and treatment*—A program established under provisions of Medicaid (42 CFR 441 Subpart B) (relating to Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) of Individuals Under Age 21) to provide expanded health services to eligible individuals under 21 years of age.

*Emotional disturbance*—A condition evidenced by a child's inability to function in the home, school or community and which requires multiple mental health, medical, social, educational or family supports.

*Family*—Parents, as defined in this section, siblings and other relatives living in the home.

*Mental illness*—The existence of a mental disability subject to DSM III-R diagnosis, excluding mental retardation or substance abuse as the primary diagnosis, rendered by a licensed physician or licensed psychologist. The DSM III-R is the Diagnostic and Statistical Manual of Mental Disorders, Third Edition, Revised, published by the American Psychiatric Association, 1987, 1400 K Street, N. W., Washington, D. C. 20005, and any subsequent editions.

*Parent*—The biological or adoptive mother or father or the legal guardian of the child or a responsible relative or caretaker with whom the child regularly resides.

### GENERAL REQUIREMENTS

#### § 5260.11. Provider participation.

(a) County mental health/mental retardation programs and public and private agencies are eligible to participate as Family-Based Mental Health Service providers if they are included in a county plan which has been approved by the Department and licensed as providers by the Office of Mental Health.

(b) Providers shall be enrolled as a Medical Assistance provider by the Office of Mental Health by the end of the first year of funding.

(c) Providers shall abide by provisions of Chapter 1101 (relating to general provisions) and the Medical Assistance Provider Agreement.

(d) Providers shall comply with Chapter 20 (relating to licensure or approval of facilities and agencies).

(e) Providers shall meet the standards set forth in this chapter unless a waiver has been granted. The Department, through the Deputy Secretary for Mental Health, may grant a waiver not to exceed 1 year, subject to renewal if the following conditions are met:

(1) The provider has documented its unsuccessful attempts to meet standards.

(2) Issuance of the waiver will not adversely affect the quality of services or consumer family rights.

#### § 5260.12. Consumer eligibility.

(a) Children and adolescents and members of their families are eligible for Family-Based Mental Health Services if the following exist:

(1) A child or adolescent has a mental illness or emotional disturbance and is determined to be at risk for out-of-home placement, such as inpatient psychiatric care, residential care, foster care, and the like.

(2) A determination of eligibility and a recommendation for Family-Based Mental Health Service treatment is made by a licensed physician or licensed psychologist prior to the initiation of services and is documented.

(3) At least one adult member of the consumer's family agrees to participate in the service.

(b) The agreement by the adult member shall be documented.

(c) Payment for service shall be authorized by the county administrator or a designee within 20 days of the initial date of service.

(d) A consumer family is eligible for a 32-week period of service, beginning on the first date of service.

(e) Additional periods of service may be provided if the following exist:

(1) Each additional period of service is based upon an updated recommendation by a licensed physician or licensed psychologist.

(2) The service is reauthorized by the county administrator or designee.

(f) If one or more other child care agencies are involved with the consumer, for example, Drug and Alcohol Children and Youth, Juvenile Probation or Education, there shall be a consensus that Family-Based Mental Health Services are needed. A jointly developed, written plan which documents the service responsibilities of each agency shall be included in the treatment plan within 30 days of the initial date of service.

### STRUCTURE AND ORGANIZATION

#### § 5260.21. Organizational requirements.

(a) Family-Based Mental Health providers shall ensure that the following organizational requirements are met:

(1) Family-Based Mental Health Services shall be organized and identified as a separate unit within the organization of the enrolled provider.

(2) Overall supervision of the unit shall be provided by a director who is employed full-time by the Family-Based Mental Health Services Program. The full-time employment may include supervision of a Family Preservation Program, as defined by the Department, Office of Children, Youth and Families.

(3) Services to a consumer family shall be provided by an identified team which consists of two child mental health professionals or a child mental health professional and a child mental health worker who provide treatment services under supervision of the program director. Additional staff persons possessing lesser qualifications may be designated to provide support services, but these persons may not participate in treatment unless a member of the designated team is present to conduct the treatment session.

(4) Each team may serve a maximum caseload of eight consumer families at a time.

(5) There shall be a minimum of 1 hour of face-to-face contact per consumer family per week.

(6) Service shall be available to the consumer family 24 hours a day, 7 days a week.

(7) Team members, either individually or together, shall have face-to-face contacts with members of the consumer family on a regularly scheduled basis as well as when needed.

(b) The members of the treatment team and the program director may not be employed in another mental health program with the exception of the program director who may provide supervision for a Family Preservation Program.

§ 5260.22. Relationship to other parts of the system.

(a) Family-Based Mental Health Services are comprehensive mental health services which provide treatment, casework services and family support services.

(b) During the period that Family-Based Mental Health Services are provided, the only other mental health services that may be billed to the consumer are:

(1) Psychiatric partial hospitalization.

(2) Psychiatric clinic medication visits.

(3) Two intensive case management contacts per month with eight contacts permitted during the 30-day period prior to the date of discharge from Family-Based Mental Health Services.

(4) A psychiatric evaluation.

(5) Psychological testing and evaluation.

(6) Psychiatric inpatient services.

(7) Emergency mental health services.

(c) If an adult member of the consumer family other than the consumer has mental illness and requires other mental health services, such as psychiatric outpatient clinic services, these services may not be provided by Family-Based Mental Health Services staff. These services shall be rendered by another provider and be billed according to the eligibility of that individual.

(d) Providers shall have written agreements with other child-serving agencies and frequently used community contacts to ensure cooperative efforts in serving the consumer family and to facilitate continuity of care.

§ 5260.23. Staff requirements.

(a) Staff members shall have clearance under 23 Pa.C.S. Chapter 63 (relating to the Child Protective Services Law) before providing service.

(b) The Program Director shall have one of the following:

(1) A graduate degree in psychiatry, psychology, social work, nursing, rehabilitation, education or a graduate

degree in the field of human services plus at least 3 years direct care experience with children or adolescents in the following Child and Adolescent Service System Program (CASSP) systems: Mental Health, Mental Retardation, Education, Special Education, Children and Youth, Drug and Alcohol, Juvenile Justice, Health Care and Vocational Rehabilitation, including 2 years of supervisory experience in any program of the CASSP system.

(2) Supervisory certification from the American Association of Marriage and Family Therapists.

(3) A bachelor's degree with a major in a field of human service plus at least 3 years direct care experience with children and adolescents in a CASSP system program and may direct a Family-Based Mental Health Program if the Department approves and the service of a clinical consultant is obtained to provide clinical support at least 3 hours of service per team per week for a program with one team plus 1 hour per team per week for each additional team. The clinical consultant may not provide direct Family-Based Mental Health Services for the provider. The clinical consultant shall:

(i) Be a psychiatrist or a person with a master's degree in a field of human service plus 3 years of direct mental health service experience in working with children and families.

(ii) Oversee treatment plans and other direct and indirect clinical support as assigned by the program director.

(c) A child mental health professional shall have one of the following:

(1) A graduate degree in psychiatry, psychology, social work, nursing, education, rehabilitation or a graduate degree in the field of human services plus 2 years experience in a CASSP system program.

(2) Be a licensed registered nurse (RN) with 5 years of experience including 2 years of experience in a CASSP system program plus have certification by the Department's Office of Mental Health (OMH) as a mental health family based worker.

(3) A bachelor's degree in psychology, sociology, social work, nursing, rehabilitation, education, pre-med, theology, anthropology or a degree in the field of human services plus certification by OMH as a mental health family based worker.

(d) A child mental health worker shall do one of the following:

(1) Have a bachelors degree in psychology, sociology, social work, nursing, rehabilitation, pre-med, theology or anthropology plus 1 year of experience in a CASSP system program.

(2) Have 12 college level semester hours in humanities or social services plus 1 year of experience in a CASSP system program and be enrolled for certification by OMH as a mental health family based worker.

(3) Be a licensed RN plus have 1 year of experience in a CASSP system program and be enrolled for certification by OMH as a mental health family based worker.

(e) The program director shall have at least one documented supervisory meeting with each team at least once a week.

RESPONSIBILITIES

§ 5260.31. Responsibilities of providers.

Family-Based Mental Health Service providers shall:

(1) Abide by this chapter, Appendix A, Chapters 1101, and 4300 (relating to general provisions; and County

Mental Health and Mental Retardation Fiscal Manual), the Mental Health Procedures Act (50 P.S. §§ 7101-7503) and other applicable laws and regulations.

- (2) Abide by provisions of the county plan.
- (3) Deliver services at times most convenient to the consumer family in a manner that promotes family cohesiveness.
- (4) Inform members of the consumer family when service planning is initiated of their rights, including confidentiality, freedom of choice and the right of appeal, and document that this information has been provided.
- (5) Encourage members of the consumer family to participate in planning and service.
- (6) Require staff persons to attend appropriate training on a regular basis and as required by the Department.
- (7) Have a written schedule or plan which is provided to consumers and their families showing how 24-hour, 7 day-per-week service availability is assured.
- (8) Maintain overall supervision of Family-Based Mental Health Services, assuring that the following activities are appropriately employed in serving consumers and their families:
  - (i) Treatment services which may include individual, family and group therapy and counseling, sensitivity training, play therapy, recreational therapy, cognitive techniques, parenting skills, assertiveness training, reality therapy, rational/emotive therapy, modeling, behavior modification and coping skills.
  - (ii) Assessment.
  - (iii) Planning.
  - (iv) Family support.
  - (v) Service linkage.
  - (vi) Referral.
- (9) Participate in program evaluation as required by the Department.
- (10) Submit reports required by the Department in a timely manner.

#### § 5260.32. Responsibilities of county administrators.

The county administrator shall:

- (1) Make annual reviews to verify that providers comply with this chapter and the county plan.
- (2) Provide fiscal and program reports as required by the Department.
- (3) Certify that State matching funds are available for Medicaid compensable services.
- (4) Directly or by a designated agent, authorize payment for each 32-week period of Family-Based Mental Health Services within 20 days of the initial service to the consumer family.
- (5) Submit notice to the Department if Family-Based Mental Health Services are reauthorized for an additional period of service.
- (6) Forward a request to the Department for approval to use a clinical consultant if the program director does not meet the staff qualifications.

#### RECORD AND PAYMENT REQUIREMENTS

##### § 5260.41. Recordkeeping.

The provider shall:

- (1) Maintain Family-Based Mental Health Service records which are separate and complete from other program records.
- (2) Ensure that written procedures and records are kept in accordance with this chapter and Chapters 1101 and 4300 (relating to general provisions; and County Mental Health and Mental Retardation Fiscal Manual).
- (3) Use forms and procedures required by the Department in this chapter and other appropriate documents.
- (4) Maintain records for at least 4 years or until the consumer reaches age 21, whichever is longer.

##### § 5260.42. Record contents.

The record shall include at least the following information:

- (1) Identifying information which includes the name, address, birthdate, social security number, and the like for the consumer and other members of the consumer family.
- (2) Referral source and the recommendation by a physician or licensed psychologist for Family-Based Mental Health Services.
- (3) Presenting problems.
- (4) Consent to treatment forms.
- (5) Diagnosis and evaluation of the child or adolescent with the signature and legible name of the qualified professional.
- (6) A medical history of the child or adolescent, including a copy of a current physical examination which conforms to the EPSDT Program periodicity schedule.
- (7) A social and developmental history of the child or adolescent, including the roles of other members of the consumer family.
- (8) Treatment plans and updates, including the responsibilities of each member of the team.
- (9) Entries and progress notes for every contact, including the duration of the contact, with the signature and legible name of the responsible staff person who provided the services. Services may not be billed without proper documentation as back-up.
- (10) Documentation of changes in a consumer family's progress, including admission and discharge.
- (11) A discharge summary which includes an aftercare plan.
- (12) Referrals, listing the name of the agency or practitioner, the responsible person contacted and the purpose and anticipated outcome.
- (13) Other progress and evaluation forms required by the Department.

##### § 5260.43. Treatment plan.

- (a) The treatment team shall prepare a comprehensive treatment plan based on the strengths and needs of the consumer. The plan shall include:
  - (1) The diagnosis and current mental status of the consumer.
  - (2) A physical examination of the consumer within the previous 12 months.
  - (3) An assurance that eligible individuals in the consumer family and their parents have been informed about the EPSDT Program under the Medical Assistance Pro-

gram and the benefits of services available under the program to eligible persons under 21 years of age.

(4) A psychosocial evaluation of the consumer family, including psychological, social, vocational and educational factors important to the consumer family and the dynamics within the consumer family unit.

(b) The treatment plan shall establish specific goals for the consumer and other members of the consumer family. The goals shall include:

(1) Short-term, realistic, specific objectives related to each goal and described in terms of specific measurable outcomes and time lines.

(2) The person responsible for carrying out each part of the plan.

(3) The activities or modalities to be employed.

(4) Objectives which are evaluated and redefined periodically according to the progress made in attaining the objectives.

(c) Plans and updates shall be prepared and reviewed with input from the consumer family, including children, as age and functionally appropriate.

(1) The parent of a consumer who is a child shall sign the treatment plan and updates.

(2) An adolescent who is a consumer shall sign the treatment plan and updates.

(d) Progress notes shall clearly record the delivery of services and how the services relate to the attainment of the goals in the treatment plan.

(e) The initial plan shall be prepared, reviewed and approved by the program director—and clinical consultant, if required—within 5 calendar days of the initial service.

(f) The plan shall be reviewed and updated at least once a month thereafter.

§ 5260.44. Policies and procedures.

Each provider shall have on file a written policy procedure manual which shall be updated and purged regularly specifying the clinical policy and procedures of the program. This manual shall include at least the following:

(1) Intake and termination policies and procedures.

(2) The services to be provided and the scope of these services.

(3) Policies providing for continuity of care for children and adolescents and their families discharged from the program.

(4) Staff supervision and training.

§ 5260.45. Payment.

(a) Family-Based Mental Health Services are exempt from Medical Assistance copayment charges and from State/county liability charges.

(b) When conditions of this chapter are met and the county plan is approved by the Department, Family-Based Mental Health Services paid from county mental health allocations are eligible for 100% State financial participation.

(c) Family-Based Mental Health Services provided to the members of a consumer family shall be billed to the account of the consumer.

(d) Eligible individuals under 21 years of age in a family may receive the full range of Family-Based Mental Health Services from the same treatment team, but only one member of the family at a time may be enrolled as the consumer.

(e) If a Family-Based Mental Health Service is provided to a consumer who qualifies for Federal financial participation, the provider shall bill the Medical Assistance Program in accordance with procedures established by the Department under Chapter 1101 (relating to general policies). The non-Federal portion of the fee shall be met using the State portion of Family-Based Mental Health Service funds as provided for under this chapter through the allocation of funds to the county mental health program or other identified local funds under the control of the county administrator.

(f) Payments for room and board and services provided to consumer family members who are ineligible for Federal Medicaid payments shall be paid using all State funds.

(g) Services provided while the consumer is hospitalized cannot be submitted until the consumer returns home to continue involvement in the service.

(h) An eligible child or adolescent may not be denied needed Family-Based Mental Health Services merely because the child or adolescent is ineligible for Federally reimbursed services. In these circumstances, 100% State funds may be used to provide payment for the necessary service.

(i) Provider staff meetings, supervision, recordkeeping activities and other nondirect services, may not be billed as a Family-Based Mental Health Service Unit. Costs for these activities are included in the rate.

(j) The unit of service for billing purposes shall be 1/4-hour or major portion thereof in which a member of the team is one of the following:

(1) In face-to-face or telephone contact with a member of the consumer family or friends, service providers or other essential persons for the purpose of assisting the consumer family in meeting its treatment goals.

(2) In travel to sites of service outside of the provider agency.

(k) A provider specific fee for services payment methodology as established in § 1150.62 (relating to payment levels) shall be used to reimburse Family-Based Mental Health Services. Rates will be reevaluated annually.

§ 5260.46. Reconciliation of costs.

Providers of Family-Based Mental Health Services shall reconcile estimated expenditures to actual costs annually, utilizing procedures prescribed by the Department. Reconciliation does not allow providers to retain revenues which exceed costs.

§ 5260.47. Quality assurance and utilization review.

(a) The quality of Family-Based Mental Health Services shall be ensured by written provider quality assurance procedures and standards which include clinical case reviews, periodic staff conferences, written utilization review documentation, required attendance at training programs for staff members and other oversight.

(b) Services are subject to review by the Department and appropriate agencies in accordance with §§ 1101.71—1101.75 and by authorized agents of the county government.

## CONSUMER FAMILY RIGHTS

## § 5260.51. Participation and freedom of choice.

(a) Providers shall have a written policy approved by the county administrator which assures consumers and their families of freedom of choice. The county administrator shall ensure that the provider fully discloses the fact that the agency is or may be performing other direct services which could be obtained at another agency if the consumer family members so desire.

(b) A family member, adolescent or parent, on behalf of a child, has the right to refuse to participate in Family-Based Mental Health Services without prejudice to other parts of his treatment program. When a child or adolescent needs Family-Based Mental Health Services but a family member does not wish to participate, the circumstances and efforts to gain participation shall be documented.

(c) The parent with whom a child is living shall act on behalf of the child in service planning. The child shall be encouraged to participate in the process insofar as the child is able and insofar as participation is age and functionally appropriate.

(d) A parent may act on behalf of the child in decisions relating to services and shall be involved in decisions involving the formation of, and change in, plans for services.

(e) An adolescent may consent to treatment or discharge without the consent of the parent if the adolescent substantially understands the nature of treatment and may sign and release records under section 201 of the Mental Health Procedures Act (50 P. S. § 7201).

(f) If an adolescent acts independently, the parents shall be notified and have a right to object under section 204 of the Mental Health Procedures Act (50 P. S. § 7204).

## § 5260.52. Confidentiality.

Persons receiving Family-Based Mental Health Services are entitled to confidentiality of records and information as set forth in §§ 5100.31-5100.39 (relating to confidentiality of mental health records) and other applicable Federal and State requirements.

## § 5260.53. Nondiscrimination.

Enrolled providers may not discriminate against staff or consumer family members on the basis of age, race, sex, religion, ethnic origin, economic status or disability and shall observe applicable State and Federal statutes and regulations.

## § 5260.54. Right of appeal.

(a) Department actions against a consumer for misutilization or abuse are subject to the right of appeal in accordance with Chapter 275 (relating to appeal and fair hearing).

(b) Individuals who have been terminated from Family-Based Mental Health Services over their objections, or the objection of a parent if the consumer is a child, shall have the right to appeal the decision.

## APPENDIX A

## Service Characteristics

Family-Based Mental Health Services are:

—Brief crisis stabilization as well as more extensive treatment, education and skill building for consumers and families enrolled in the program.

—Delivered primarily in the family home.

—A rapid response to need; services should begin within 24 hours of acceptance into the program.

—Time limited but flexible (additional periods of services may be approved).

—Team-delivered to broaden the base of clinical skills, achieve maximum therapeutic impact and provide mutual support for therapists.

—Intensive.

—Characterized by a "whatever it takes" attitude.

—Relief services like sitter, homemaker, respite care, therapeutic recreational opportunities and transportation or new creatively developed methods of supporting families such as participation in parent support groups.

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INSURANCE  
DEPARTMENT

[31 PA. CODE CH. 25]

Rules and Procedural Requirements for Insurance  
Holding Company Systems

The Insurance Department (Department) hereby proposes to amend Chapter 25 to read as set forth in Annex A.

## Statutory Authority

Under Article XII of the Insurance Company Law of 1921 (Article XII), added by the act of December 18, 1992 (P.L. 1519, No. 178), the Insurance Commissioner (Commissioner) proposes to delete §§ 25.3, 25.7, 25.9 and 25.10; amend §§ 25.1, 25.2, 25.8 and 25.11; and to add §§ 25.12-25.23, including Forms A-D.

## Purpose

On December 18, 1992, Governor Casey signed into law Act 178-92 to be effective in 120 days of enactment. Act 178-92 contains substantial amendments to the Insurance Company Law of 1921, one of which provides for the prior law relating to the regulation of holding company systems to be totally repealed and replaced with Article XII, Insurance Holding Companies. The purpose of the proposed rulemaking is to update the existing regulations at Chapter 25, pertaining to holding company systems to reflect the new law. Existing sections which are inconsistent with Article XII have been amended or deleted in their entirety. New sections have been added where necessary to implement the new law. The proposed amendments set forth rules, procedural requirements and reporting forms which the Commissioner deems necessary to carry out the provisions of Article XII.

The standards and requirements prescribed by Article XII and the proposed amendments are aimed at preventing abuses resulting from the relationships among insurance companies, their parents or holding companies and their affiliates/subsidiaries. The disclosure requirements