



March 19, 2009

Karen M. Carpenter-Palumbo
Commissioner
New York State Office of Alcoholism
and Substance Abuse
1450 Western Ave.
Albany, New York 12203

Dear Commissioner Carpenter-Palumbo:

The Coalition of Behavioral Health Agencies, Inc. is pleased to submit the following comments on the draft revision of Part 822, of the Mental Hygiene Regulations.

The Coalition is the umbrella trade association and public policy advocacy organization of New York's behavioral health providers, representing over 110 non-profit behavioral health agencies. Taken together, these agencies serve more than 350,000 adults and children and deliver the entire continuum of behavioral health care in every neighborhood of a diverse New York City and its environs.

Founded in 1972, the mission of the Coalition is to coordinate the efforts of government and the private sector toward efficient delivery of quality behavioral health services to children, adults and families. The Coalition promotes policies and practices that support the development and provision of housing, treatment, and rehabilitation and support services to all people with mental illness and substance abuse problems. Our members serve a diverse group of recipients, including the fragile elderly, people who are homeless, those who struggle with AIDS and other co-morbid health conditions, violence and other special needs.

Concerns Related to Use of Language

In reading the regulations we are concerned about the ambiguity of language in various sections as it references "services" "visits" "sessions" and "days". For example, **Section 822.2 (e)** notes that, "Each outpatient service shall operate at least five days per week providing structured treatment services..." However, **822.2(f)** "Outpatient services are generally not appropriate for patients **who require more than four individual, group and/or family counseling sessions per week.**" **Does this last section mean 4 billable sessions (services) a week?** Coalition members tell us that they run structured programs each day, consisting of a variety of different "services". Although billing rules allow one billable service a day, clients are able to access many more services in a day. **822.7 (l)** notes "**For patients who are scheduled to continue in intensive outpatient treatment (4 or more days per week)....**" This section seems to be inconsistent with **822.2(f)** noting **4 sessions per week**. Further, Section **822.17 (a)**

references “visits” and notes that **“There shall be reimbursement for no more than one visit per day, per patient or significant other, regardless of the number or types of outpatient services.”**

Due to New York State’s participation in the F-SHRP Program (Federal State Health Reform Partnership), the Office of the Medicaid Inspector General has been charged to aggressively recoup increasingly larger amounts of Medicaid dollars from providers who have participated in fraud and/or abuse, in order to reimburse the Federal government. This year alone, New York State must give the Federal government \$322 million. Ambiguity of language in regulations will result in providers erroneously billing for “visits” or “services” that do not meet the regulations and risk huge takebacks when audited. The Coalition urges that language be consistent and transparent.

Integrated Treatment


The Coalition was proud to participate on the Co-Occurring Disorder Task Force which examined ways to integrate mental health and substance abuse treatment in all OMH and OASAS certified outpatient clinics. As a result of this collaborative effort, both commissioners signed a memorandum of agreement encouraging operational flexibility and systemic support. As this vision becomes reality, revised regulations on either side, should attempt to align as much as possible the policies, procedures and methods governing the provision of services to clients. As such, we believe that the assessment, evaluation, initial treatment and continuing treatment planning procedures and the Quality Assurance and Utilization Review processes be re-aligned so that OMH and OASAS outpatient clinics will be governed by the same rules. The Coalition believes that this alignment will result in increased numbers of providers actively attempt to provide integrated services if regulatory simplicity can be achieved.

Staffing Issues

Coalition members frequently voice concern about the difficulty in hiring certain professional groups such as psychiatrists, physicians and nurses. Part 822.12(b) requires that programs hire a medical director who also has an additional addictions certification. The Coalition believes that this is an unrealistic expectation given the paucity of such professionals to work in the public behavioral health sector. In addition, most programs could not afford to pay the salaries of said professionals.

The Coalition is grateful to have had the opportunity to comment on the draft regulations.

Sincerely yours,



Phillip A. Saperia
Executive Director