



# DEVELOPMENTAL PROGRAMS BULLETIN

COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF PUBLIC WELFARE

DATE OF ISSUE  
January 14, 2013

EFFECTIVE DATE  
January 12, 2013

NUMBER  
6400-13-01

SUBJECT:

Clarifying the applicability of Chapter 6400 to private homes — statement of policy

BY:   
Fred C. Lokuta  
Acting Deputy Secretary for Developmental Programs

## SCOPE:

Administrative Entity (AE) Administrators or Directors  
County Mental Health/Mental Retardation Program (MH/MR) Administrators or Directors  
Supports Coordination Organization (SCO) Directors  
Providers of Residential Services

## PURPOSE:

The purpose of this bulletin is to clarify the applicability of 55 Pa. Code Chapter 6400 (relating to community homes for individuals with mental retardation) to homes leased or owned by individuals with intellectual disabilities or their families<sup>1</sup>.

## DISCUSSION:

Chapter 6400 explicitly states that it does not apply to "[p]rivate homes of persons providing care to a relative with mental retardation." 55 Pa.Code § 6400.3(f)(1) (relating to applicability). The Department is clarifying that the private home exclusion under § 6400.3(f)(1) includes homes leased or owned by individuals with intellectual disabilities or their families. Therefore, these homes are not subject to licensure under Chapter 6400.

A residential home that is owned or leased by a provider, however, is not a private home and is required to be licensed under Chapter 6400. This includes homes owned or leased by the provider and then subsequently leased to the individual with intellectual disabilities or the individual's family.

COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:  
**The Appropriate Developmental Programs Regional Office**

<sup>1</sup> Although state regulations still use the term "mental retardation," the commonly-used term in the field is "intellectual disabilities." This change has been reflected in State and Federal statutes laws. See, e.g., Act 105 of 2011, changing the name of state law to the "Mental Health and Intellectual Disability Act of 1966," 50 P.S. §§ 4101 *et seq.*; Rosa's law," S.2781 -111<sup>th</sup> Congress (2009), sec. 4, signed on September 24, 2010, substituting "individuals with intellectual disabilities" for the term "the mentally retarded" in Federal law.

**REGULATION INTERPRETATION:**

This regulation interpretation is contained in Annex A to this bulletin.

**EFFECTIVE DATE:**

This statement of policy is effective upon publication in the *Pennsylvania Bulletin*.

**OBSOLETE BULLETIN:**

This bulletin replaces and supersedes Bulletin 00-04-12, *Clarifying the "30-Hour Rule"*

**CONTACT PERSON:**

Questions should be directed to the Regional Program Manager at the appropriate regional ODP as identified below. Copies of this statement of policy may be obtained at the local MH/MR County Program, AE or regional ODP in the corresponding regions:

- *Western region:* Piatt Place, Room 4900, 301 5<sup>th</sup> Ave., Pittsburgh, PA 15222 (412) 565-5144
- *Northeast region:* Room 315 Scranton State Office Bldg., 100 Lackawanna Ave., Scranton, PA 18503 (570) 963-4749
- *Southeast region:* 801 Market St. Suite 5071, Philadelphia, PA 19107 (215) 560-2242 or (215) 560-2245
- *Central region:* Room 430 Willow Oak Bldg., P.O. Box 2675, DGS Annex Complex, Harrisburg, PA 17105 (717) 772-6507



Gary D. Alexander  
Secretary of Public Welfare

**ANNEX A**

**STATEMENT OF POLICY**

**DEPARTMENT OF PUBLIC WELFARE**

**OFFICE OF DEVELOPMENTAL PROGRAMS**

[55 Pa. Code Chapter 6400]

**Community Home for Individuals with Mental Retardation**

**§ 6400.3a. Clarifying the applicability of Chapter 6400 to private homes – statement of policy.**

- (a) Except as specified in subsection (b), private homes under § 6400.3(f)(1) (relating to applicability) include homes owned or leased by individuals with intellectual disabilities or their families.
- (b) Homes owned or leased by providers are not private homes and must be licensed under this chapter, regardless if these homes are subsequently leased by the providers to individuals with intellectual disabilities or their families.
- (c) Private homes under subsection (a) are not subject to licensure under this chapter.

COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:

**The Appropriate Regional Office of Developmental Programs**