



MENTAL RETARDATION BULLETIN

COMMONWEALTH OF PENNSYLVANIA · DEPARTMENT OF PUBLIC WELFARE

DATE OF ISSUE
January 20, 2006

EFFECTIVE DATE
October 1, 2005

NUMBER
00-06-02

SUBJECT:
Office of Mental Retardation Provider Dispute
Resolution Protocol for Individuals in the
Consolidated Waiver

BY:

A handwritten signature in black ink, appearing to read "Kevin T. Casey", is written over a light grey background.

Kevin T. Casey
Deputy Secretary for Mental Retardation

SCOPE:

County Mental Health/Mental Retardation Administrators
Non-County Administrative Entity
Supports Coordination Entities
Community Home Directors
Family Living Directors
Adult Training Facility Directors
Vocational Facility Directors

PURPOSE:

This bulletin establishes interim procedures effective October 1, 2005, for providers to request the Office of Mental Retardation's (OMR's) intervention in disputes with the Administrative Entity related to the provider's participation in the Consolidated Waiver program.

BACKGROUND:

OMR is responsible for ensuring that Administrative Entities consistently apply waiver requirements. OMR establishes this protocol to ensure consistent application of policies across the Commonwealth and to create a more timely dispute resolution process.

QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:

The Appropriate Regional Program Manager

The provider is responsible for initiating requests for dispute resolution to OMR. Requests for dispute resolution should be initiated by a provider when:

- The Administrative Entity has determined that the provider does not meet waiver qualification requirements.
- The Administrative Entity has imposed restrictions or suspension upon the provider.
- The Administrative Entity has imposed additional contractual requirements.
- The Administrative Entity has initiated a termination or disqualification action and there are violations of 55 Pa Code §4300 that limit the provider's ability to provide waiver services.

The provider shall submit a "*Request for Dispute Resolution*" form to the appropriate regional program office. (See attached) The form has two parts. The first part is submitted by the provider and describes the dispute. The second part is used by the regional offices to document research and inquiry, and to notify the provider or the Administrative Entity of its final determination.

The Administrative Entity may submit information regarding the dispute within seven days of receiving a copy of Part 1 of the "*Request for Dispute Resolution*" form.

Criteria for Dispute

In order for a dispute to be reviewed by OMR, the "*Request for Dispute Resolution*" form must be complete upon submission and meet at least one of the following criteria:

- The provider was denied waiver qualification.
- The provider has received notification of refusal to contract.
- The provider's participation in the waiver program has been restricted or suspended.
- The provider has been notified of the Administrative Entity's intent to disqualify them from the waiver program.
- The provider was required to comply with additional contractual requirements beyond waiver qualification requirements.
- The Administrative Entity has failed to comply with the provisions of Pa Code §4300 that limit ability to provide waiver services.

Regional Review and Determinations

The regional office will review all documentation submitted by the provider and the Administrative Entity. They must review that the Administrative Entity's actions were based on:

- The current approved Waiver
- The Medicaid State Plan
- All pertinent MR Bulletins
- All pertinent Regulations

The Reviewer will contact the Administrative Entity to obtain documentation regarding their actions and may contact the provider to obtain clarification needed as part of the review.

The Reviewer shall submit a summary of their findings and recommendations to the appropriate Regional Program Manager. The summary shall include the following:

- A description of the action that is being disputed.
- A list of materials reviewed.
- A list of parties.
- The findings and recommendations of the Reviewer.
- The policies and regulations that form the basis of the recommendations.

OMR Review and Concurrence

The Reviewer will submit a proposed decision to the Regional Program Manager within 20 days of receipt of Part 1. The regional determinations are subject to concurrence by the Area Directors.

OMR Area Directors will then review the decision for consistency with similar disputes from other Regions. In instances where the Area Directors do not concur with the regional determination, they will return the response to the Regional Reviewer with comments for revision. The Reviewer will revise the response and resubmit the determination to the Area Directors for concurrence.

The Regional determination will be mailed to the provider and the Administrative Entity within 30 days of receipt of Part 1. In accordance with MR Bulletin 00-04-07, entitled "*Clarifying Procedures for Individual and Provider Appeals*", provider appeals are

initiated and completed in accordance with 55 Pa Code §4300 and the Local Agency Law.

Implementation of the Regional Office Decision

OMR is responsible for ensuring that decisions are implemented in a timely manner. The Reviewer will instruct the Administrative Entity of the required action(s), with specific time frames if applicable. The Administrative Entity will notify the regional office of the status of the decision implementation. If the Administrative Entity experiences delays in implementing the required action(s), a written request for an extension will be submitted to the regional office.

Enforcement Mechanisms

If the Administrative Entity fails to implement the decision from OMR, the regional office will notify the Administrative Entity Administrator in writing, that the decision has not been implemented as directed. The Administrative Entity must provide documentation of good faith efforts to implement the decision, including documentation detailing barriers to successful implementation. If there is continued failure to implement the decision, the regional office will notify the County Commissioners/Administrative Entity Governing Board of the program's failure to implement the decision and require an immediate plan from the County Commissioners/Administrative Entity Governing Board to comply. Further failure to implement the service will result in the imposition of appropriate sanctions.

Mechanism to Track Disputes, Findings, and Outcomes

OMR will track reasons for disputed action(s) and analyze findings to determine patterns or trends that may have policy or training implications. OMR will review these procedures and revise them as needed. Additionally, OMR will provide the Administrative Entity with a summary of findings and recommendations.

Attachment