



DEVELOPMENTAL PROGRAMS BULLETIN

COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF PUBLIC WELFARE

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SUBJECT:

Approved Program Capacity in Residential Service Locations Licensed Under 55 Pa.Code Chapter 6400

BY:

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SCOPE:

Administrative Entity Administrators or Directors
County MH/MR Program Administrators
Supports Coordination Organization Directors
Providers of Mental Retardation Services

PURPOSE:

The purpose of this bulletin is to define approved program capacity in residential service locations licensed under 55 Pa. Code Chapter 6400 (relating to Community Homes for Individuals with Mental Retardation) and identify the procedure to be used when requesting a change to a service location's approved program capacity or when establishing a new service location's approved program capacity.

BACKGROUND:

An approved program capacity baseline has been set by ODP for all existing providers of waiver services in service locations licensed under 55 Pa. Code Chapter 6400 in accordance with information gathered from providers, Administrative Entities (AEs) and Individual Support Plan (ISP) authorizations. Each provider has been notified of the approved program capacity for each of its residential habilitation service locations licensed under 55 Pa.Code Chapter 6400.

DISCUSSION:

Approved program capacity is: The individual capacity established by ODP for each residential service location licensed under 55 Pa. Code Chapter 6400 (relating to Community Homes for Individuals With Mental Retardation) based on the maximum number of individuals who are authorized to receive services at that service location site on any given day throughout the Fiscal Year (FY), regardless of the service or funding type authorized to pay for that service. Approved program capacity establishes the procedure code associated with a particular service location and it is used to establish the rate for that location. This maximum

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number includes Waiver participants authorized to receive residential habilitation services at the home that are on temporary leave status. The approved program capacity also includes individuals residing at the home who are receiving residential services through base funding or other funding sources, including individuals who are paying privately.

Approved program capacity may not exceed the home's licensed capacity. In accordance with 55 Pa. Code §§ 6400.78(b), 6400.81(c) and 6400.81(d), maximum licensed capacity is based on square footage. Any vacancies resulting from an individual's move from the home, including a permanent vacancy authorized for payment, will *not* alter the approved program capacity.

Waiver-funded licensed 6400 community homes may provide respite in a vacant bed within the established approved program capacity without ODP approval.

On a case-by-case basis, ODP may approve the provision of respite services above a service location's approved program capacity for emergency situations only. Written emergency approval to provide respite services above a service location's approved program capacity must be obtained from the ODP regional Waiver Capacity Manager (WCM) before the provision of respite occurs. **In no circumstance will this emergency approval result in more than 4 individuals receiving services at the service location in a calendar day, regardless of the service location's licensed capacity.**

Each individual who receives waiver funded respite services is limited to 30 calendar days of respite per calendar year. FSS regulations 6350.21 regarding respite care pertain to base funded individuals.

This respite policy for Waiver-funded licensed 6400 community homes does not alter or obsolete the policy regarding respite in a larger setting. The policy regarding respite in a larger setting provides an exception process to request respite services be provided in a large non-waiver-funded setting in which no approved program capacity is established.

Procedure to Request a Change to a Service Location's Approved Program Capacity:

If a provider believes a change to one of its service location's approved program capacity is needed, the residential habilitation service provider initiates the request in writing to both the appropriate Regional Program Manager (RPM) and regional WCM with a copy to the AE where the home is located. This written request must include:

- The date of the request.
- The name of the provider and contact information for the responsible staff person who may be contacted if there are any questions regarding the request.
- The requested effective date of the change. Retroactive changes will not be permitted; approved program capacity may only be changed moving forward prospectively.
- The service location of the home for which the change is requested.

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The Appropriate Regional Office of Developmental Programs

- The justification for the request. The justification must specify how either the health or welfare or both, of the individuals currently living in the home would be addressed or improved by the change in approved program capacity.
- Changes will not be approved if they exceed the established waiver limits.

The regional WCM evaluates the request against the specified criteria and contacts the appropriate AE for a recommendation. The regional WCM makes a recommendation regarding approval or disapproval to the RPM. Upon receipt of the request, supporting documentation and the recommendation from the regional WCM, the RPM makes the final determination. The RPM provides written approval or disapproval to the residential habilitation service provider and appropriate AE within ten (10) business days of receipt of the request and all supporting documentation. A provider maintains the right to appeal thru the Bureau of Hearings and Appeals upon denial for a change in approved program capacity.

ODP will not consider a request for a change to a provider's service location approved program capacity if the request is not complete. An incomplete request will not be evaluated until all supporting documentation is received.

Some of the items listed below are specifically related to reducing a service location's approved program capacity. ODP will consider the following in the evaluation of a completed request for an approved program capacity change:

- Protection of health and welfare for individuals currently living in the home.
- Determination that there is an ongoing need for a change in the service location's approved program capacity.
- Evidence that the provider has undertaken extensive and exhaustive efforts to fill a vacancy, but has been unable to fill the vacancy. The following represents examples of the types of information that the Regional WCM's will be taking into consideration when evaluating the extensive and exhaustive efforts to fill a vacancy: 1). List of referrals received and the reasons they were not considered "appropriate", 2). Service location has been made available to the AE in which the individual creating the vacancy was registered, other AEs in the neighboring area and statewide for an extended period. (ODP will generally apply a "120" day or more standard since this was created), 3). The support needs of the individuals remaining at the home have changed.
- Evidence that cost shifting has not occurred.
 - If a vacancy is created because another payer is no longer able to continue to fund residential services at that service location, ODP will not reduce the approved program capacity.

Establishing Approved Program Capacity for a New Service Location:

When a provider intends to open a new service location (this includes developing a new home or relocating an existing service location), the provider must submit a request to

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establish the service location's approved program capacity to the appropriate RPM and copy the appropriate AE or County Program, as applicable, as soon as the potential location has been identified. The request must include:

- The date that the request is being made.
- The name of the provider and contact information for the provider staff person who is responsible for answering any questions.
- The requested effective date of the new service location.
- The proposed program capacity of the new service location.
- Justification for the proposed program capacity.
- Information from the appropriate AEs that the home meets waiver standards (such as, must be integrated and dispersed in the community in noncontiguous locations and may not be located on campus settings), and all applicable local requirements that the home is appropriate to address the needs of the affected individuals receiving waiver services.

Upon receipt of a request to establish a new service location's approved program capacity, the regional WCM will evaluate the request and consult with the regional licensing administrator. The regional WCM may contact the appropriate AE or AEs, as applicable, for additional information. The regional WCM will make a recommendation regarding the new service location's approved program capacity to the RPM. Upon receipt of the request, supporting documentation and the recommendation from the regional WCM, the RPM makes the final determination. The RPM provides written notification of the approved program capacity for the new service location to the provider and the appropriate AE within ten (10) business days of receipt of the request and all supporting documentation. If approved the provider must initiate the necessary changes in the services and supports directory and will and a new rate established based on ODP's rate setting methodology.

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