

RULE REVIEW

Office of Mental Health

Pursuant to Section 207 of the State Administrative Procedure Act, notice is hereby provided of the continuation without modification of the following rules which were reviewed in 2008 by the Office of Mental Health. These rules had been adopted during the calendar years 2003 and 1998. Notice that a review of these regulations would be conducted and that public comment would be accepted until May 1, 2008 was published in the February 27, 2008 State Register. All section and Part references are to Title 14 of the New York Codes, Rules and Regulations.

Section 584.5(3) Operation of Residential Treatment Facilities for Children and Youth.

Statutory Authority: Mental Hygiene Law, sections 7.09(b), 31.04(a)(2) and 31.26(b).

Justification: The Agency has determined that the continuation of this regulation without modification is necessary to allow for the temporary increase in the capacity of certain residential treatment facilities (RTF) to serve the needs of emotionally disturbed children and youth. In 2000, the Office of Mental Health determined that an increase was needed in the existing RTF capacity serving seriously emotionally disturbed children and youth who reside in New York City. At that time, the regulations in effect specified RTF bed capacity serving primarily New York City residents could be temporarily increased until September 30, 2002, by up to ten additional beds over the maximum of 56 per facility otherwise allowed by the regulation. Due to development delays in the implementation of residential alternatives, the expiration date needed to be changed to September 30, 2003. Therefore, the amendment was required to permit the continued necessary increase in RFT capacity until September 30, 2003. The issue has been the subject of review over subsequent years and has resulted in several changes in the expiration date. The current amendment filed in 2007 extends the expiration date until September 30, 2010.

Assessment of Public Comment: None received.

Sections 592.3, 592.4, 592.7, 592.8 and 588.14 Outpatient Programs.

Statutory Authority: Mental Hygiene Law, sections 7.09(b), 31.04(a), 41.13, 41.15(a), and 43.02(a); Social Services Law, sections 364(3) and 364-a(1).

Justification: The Agency has determined that the continuation of this regulation without modification is necessary to allow for the conversion of the net deficit financing for intensive psychiatric rehabilitation treatment (IPRT) programs and partial hospitalization programs, to allow for adjustments in the comprehensive outpatient programs (COPS) rates, and increase the community support program unit of service ceiling. The amendments to this regulation streamlined and updated the COPS methodology consistent with the 2001-2002 enacted State budget; permitted IPRT and Partial Hospitalization Programs that met the additional requirements placed upon COPS to receive supplemental Medicaid payments; converted net deficit financing for IPRT and Partial Hospitalization Programs who met these requirements to Medicaid in recognition of the reimbursable costs associated with COPS program requirements; and eliminated the need

for yearly amendments to the COPS regulations by changing the rate cap reference to a rate cap as directed by the Commissioner of Mental Health and approved by the Director of the Division of Budget. The changes allowed providers to achieve efficiencies in the operation of their outpatient treatment programs without a need for a reduction of services.

Chapter 54 of the Laws of 2001, the enacted budget for New York State Fiscal Year 2001-2002, and Chapter 54 of the Laws of 2002, the enacted budget for Fiscal Year 2002-2003, provided for payment by the Office of Mental Health of state financial assistance, net of disallowances, for community mental health programs pursuant to Article 41 and other provisions of the Mental Hygiene Law.

Assessment of Public Comment: None received.

Part 588 Medical Assistance Payment for Outpatient Programs.

Statutory Authority: Mental Hygiene Law, sections 7.09(b) and 31.04(a).

Justification: The Agency has determined that the continuation of this regulation without modification is necessary to allow the increase in the Medicaid rate schedule associated with outpatient programs licensed under Article 31 of the Mental Hygiene Law. The amendments increased the Medicaid rates associated with outpatient treatment programs consistent with the enacted 2002-2003 State budget. The changes avoided a reduction in services that would have otherwise taken place.

Assessment of Public Comment: None received.

Part 572 Rights of Patients.

Statutory Authority: Mental Hygiene Law, sections 7.09(I) and 31.04(a).

Justification: The Agency has determined that the continuation of this regulation without modification is necessary to help facilitate the ability of non-English speaking persons seeking or receiving services in facilities licensed or operated by OMH to have full access to mental health services.

Assessment of Public Comment: None received.

