

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 that were reviewed in 2014 by the Office of Mental Health (OMH). These rules had been adopted during the calendar years 2009 and 2004. The only rules that were adopted as final by OMH in calendar year 1999 were consensus rules, and those are not subject to rule review. Notice that a review of these regulations would be conducted and that public comment would be accepted until June 30, 2014, was published in the April 23, 2014 edition of the State Register. No comments were received.

All Part and Section references are to Title 14 of the New York Codes, Rules and Regulations.

#OMH-09-09-00002-A Operation of Residential Programs for Adults. Proposed in State Register on March 4, 2009; Adopted May 20, 2009.

Action: Amendment of 14 NYCRR Part 595.

Statutory Authority: Mental Hygiene Law Sections 7.09, 31.04, 31.25; Chapter 676 of the Laws of 2007, as amended by Chapter 24 of the Laws of 2008.

Justification: OMH has determined that continuation of this regulation without modification is necessary because the amendments established a new sub-class of community residence for individuals over the age of 18 who have been diagnosed as having an eating disorder such as anorexia nervosa, bulimia, binge eating disorder, or other eating disorder identified as such in generally accepted medical or mental health diagnostic references. The new category of community residences, known as Community Residences for Eating Disorder Integrated Treatment (CREDIT), address the needs of adults who have been referred by a provider who is a participant in a Comprehensive Care Center for Eating Disorders (CCCED) designated by the State Department of Health or by the individual's primary care physician or mental health provider, and whose individual treatment issues preclude being served in a family setting or other less restrictive residential alternative.

#OMH-09-09-00004-A Operation of Licensed Housing Programs for Children and Adolescents with Serious Emotional Disturbances. Proposed in State Register on March 4, 2009; Adopted May 20, 2009.

Action: Amendment of 14 NYCRR Part 594.

Statutory Authority: Mental Hygiene Law Sections 7.09, 31.04, 31.25; Chapter 676 of the Laws of 2007, as amended by Chapter 24 of the Laws of 2008.

Justification: OMH has determined that continuation of this regulation without modification is necessary because the amendments established a new sub-class of community residence for children and adolescents who have been diagnosed as having an eating disorder such as anorexia nervosa, bulimia, binge eating disorder, or other eating disorder identified as such in generally accepted medical or mental health diagnostic references. The new category of community residences, known as Community Residences for Eating Disorder Integrated Treatment (CREDIT), address the needs of individuals who

have reached at least the 12th birthday but not the 19th, who have been referred by a provider who is a participant in a Comprehensive Care Center for Eating Disorders (CCCED) designated by the State Department of Health or by the individual's primary care physician or mental health provider, and whose individual treatment issues preclude being served in a family setting or other less restrictive residential alternative.

#OMH-09-09-00003-A Medical Assistance Payments for Community Rehabilitation Services Within Residential Programs for Adults, Children and Adolescents. Proposed in State Register on March 4, 2009; Adopted May 20, 2009.

Action: Amendment of 14 NYCRR Part 593.

Statutory Authority: Mental Hygiene Law Sections 7.09, 31.04, 31.25, 43.02; Chapter 676 of the Laws of 2007, as amended by Chapter 24 of the Laws of 2008.

Justification: OMH has determined that continuation of this regulation without modification is necessary because the regulation clarified that services provided by Community Residences for Eating Disorder Integrated Treatment (CREDIT) programs do not qualify as rehabilitative services under Part 593 and are not eligible for Medical Assistance (Medicaid) payments.

#OMH-22-09-00013 A Comprehensive Outpatient Programs. Proposed in State Register on June 3, 2009; Adopted: August 26, 2009.

Action: Amendment of 14 NYCRR Part 592.

Statutory Authority: Mental Hygiene Law Sections 7.09, 31.04, 43.02; Social Services Law Sections 364 and 364-a; Chapter 54 of the Laws of 2008.

Justification: OMH has determined that continuation of this regulation without modification is necessary because the regulation adjusted the Medicaid reimbursement associated with certain outpatient treatment programs regulated by OMH.

#OMH-22-09-00012-A Prior Approval Review for Quality and Appropriateness. Proposed in State Register on June 3, 2009; Adopted: September 2, 2009.

Action: Amendment of 14 NYCRR Part 551.

Statutory Authority: Mental Hygiene Law Sections 7.09, 31.04, 31.05, 31.23.

Justification: OMH has determined that continuation of this regulation without modification is necessary because the amendments streamlined the process for agencies to obtain OMH project approval by creating three distinct categories of projects, "Administrative Action", "Comprehensive PAR", and "E-Z PAR". This category breakdown has resulted in a reduction in the amount of time it takes for OMH to render a decision with respect to a project and a reduction in the amount of paperwork necessary to be completed by providers.

#OMH-41-09-00007-A Medical Assistance Rates of Payment for Residential Treatment Facilities for Children and Youth. Proposed in State Register on October 14, 2009; Adopted December 23, 2009.

Action: Amendment of 14 NYCRR Part 578.

Statutory Authority: Mental Hygiene Law Sections 7.09, 43.02.

Justification: OMH has determined that continuation of this regulation without modification is necessary because the amendments removed the 2009-2010 trend factor from the Medicaid rate calculation for residential treatment facilities (RTF) to children and youth. This was an Administrative Action consistent with the 2009-2010 enacted State Budget.

#OMH-41-09-00006-A Medical Assistance Payment for Outpatient Programs. Proposed in State Register on October 14, 2009; Adopted December 23, 2009.

Action: Amendment of 14 NYCRR Part 588.

Statutory Authority: Mental Hygiene Law Sections 7.09, 31.04, 43.02; Social Services Law Sections 364 and 364-a.

Justification: OMH has determined that continuation of this regulation without modification is necessary because these regulatory amendments implemented a change in the reimbursement methodology for services provided on or after April 1, 2009, and restored funding, effective April 1, 2009, for continuing day treatment programs licensed solely under Article 31 of the Mental Hygiene Law to the level that existed on December 31, 2008.

#OMH-48-03-00009-A Operation and Medical Assistance for Outpatient Programs. Proposed in State Register on December 3, 2003; Adopted: May 5, 2004.

Action: Amendment of 14 NYCRR Parts 587 and 588.

Statutory Authority: Mental Hygiene Law Sections 7.09, 31.04.

Justification: The amendments permitted the provision of family treatment, through the addition of a definition of the service and standards for reimbursement in clinic treatment. 14 NYCRR Parts 587 and 588 have been superseded by a new 14 NYCRR Part 599 with respect to clinic treatment programs and reimbursement. Therefore, the provisions in Parts 587 and 588 regarding family treatment in a clinic setting are no longer necessary. OMH will seek to amend Parts 587 and 588 accordingly.

#OMH-15-04-00002-A Outpatient Programs. Proposed in State Register on April 14, 2004; Adopted July 7, 2004.

Action: Amendment of 14 NYCRR Part 540.

Statutory Authority: Mental Hygiene Law Sections 7.09 and 31.04; Criminal Procedure Law Article 730.

Justification: OMH has determined that continuation of this regulation without modification is necessary because the amendments established a faster and more appropriate process for determination of fitness to stand trial and return to court of a patient against whom criminal charges are pending.

#OMH-18-04-00010-A Operation of Residential Treatment Facilities for Children and Youth. Proposed in State Register on May 5, 2004; Adopted August 25, 2004.

Action: Amendment of 14 NYCRR Section 584.5(e).

Statutory Authority: Mental Hygiene Law Sections 7.09, 31.04, 31.26.

Justification: OMH has determined that continuation of this regulation without modification is necessary because the amendments allowed for the continuance of the temporary increase in the capacity of certain residential treatment facilities (RTF) to serve the needs of children and youth with serious emotional disturbance. 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 2013 extends the expiration date until September 30, 2016.

#OMH-35-04-00010-A Audits of Office of Mental Health Licensed or Operated Facilities, Programs or Units. Proposed in State Register on September 1, 2004; Adopted December 8, 2004.

Action: Amendment of 14 NYCRR Part 552.

Statutory Authority: Mental Hygiene Law Sections 7.09, 31.04, 31.07, 31.09, 31.11, 43.02; Social Services Law Sections 363(3) and 364-a(1).

Justification: OMH has determined that continuation of this regulation without modification is necessary because the amendments clarify the authority of the Commissioner of Mental Health to require financial reports and audits.