**Virginia Regulatory Town Hall**

# Notice of Intended Regulatory Action
# Agency Background Document

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| **Agency Name:** | Dept. of Medical Assistance Services 12 VAC 30 |
| **VAC Chapter Number:** | Chapters 50, 60, 130 |
| **Regulation Title:** | Community Mental Health Rehabilitative Services |
| **Action Title:** | Mental Health Services |
| **Date:** | November 14, 2001; REVISED 12/6/2001 |

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

## Purpose

*Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.*

The regulations for the community mental health services have not been revised since 1997. Several issues have been identified that need revision, such as, billing units being confusing, duplicative language regarding regulations of the Department of Mental Health, Mental Retardation, and Substance Abuse Services (DMHMRSAS), unenforceable requirements, revisions have been requested by both participating providers and consumers.

## Basis

*Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.*

Pursuant to the regulatory review requirements of Executive Order 25(98), Periodic Review of Existing Regulations, DMAS, in collaboration with DMHMRSAS, reviewed its controlling regulations for its community mental health services. A number of issues were identified in discussions with a dedicated work group comprised of state agency staff, providers and affected consumers.

## Substance

*Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.*

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The following changes are being promulgated to revise the current regulations. These regulation revisions are needed to improve the services delivered to recipients and improve clarity for providers of the services:

References to DMHMRSAS license is being removed as it is duplicative, occurring twice in the services and provider qualifications regulations.

References to twenty-four hour response capability for providers are being removed from 12 VAC 30-130-570 and 12 VAC 30-130-565 as this requirement unduly restricts providers to only public providers and prohibits private providers from participating in this service.

References to the requirement for serving individuals regardless of ability to pay is being removed from 12 VAC 30-130-570 as this can have the effect of restricting providers to only public providers.

References to who can perform an evaluation and assessment for substance abuse services is being moved from 12 VAC 30-130-570 to #5, 12 VAC 30-130-565. It is currently located in the mental health services section but belongs in the regulations for substance abuse services for pregnant and postpartum women.

References regarding mental retardation is being removed from 12 VAC 30-130-570, 6a, 6b, 6c. HCFA required that all mental retardation services be added to the waiver and not be a part of the State Plan. This reference was inadvertently not deleted at the time the rest of these changes were made.

Individual services are revised as follows. Input was obtained from the DMAS sponsored workgroup.

1. Case Management: Eliminate the requirement that case management must be provided in order to receive MH Support Services. Also, the requirements regarding who can provide case management services for Mental Health Support Services will be eliminated.

2. Mental Health Support Services:

   - Add the minimum staff qualification to deliver mental health support services are a Qualified Mental Health Professional (QMHP) to do the assessment and sign the Individual Service Plan (ISP), and supervise the care. A paraprofessional may also deliver the service.

   - Remove requirement for "a history of hospitalization" from the service eligibility criteria

   - Change the monthly limitation of 31 units ( 1 unit = 1 to 3 hours) to a yearly limit of 780 hours to allow for more intense initial service delivery

   - Add language to clarify that MH Support services may be delivered to maintain the recipient in the community

3. Day Treatment/Partial Hospitalization:

   - Add language to clarify that can be delivered to maintain the recipient in the community

   - Revise the service definition.

4. Psychosocial Rehabilitation:

   - Remove "for adults" from the service title.

   - Change the yearly limit to 2080 hours

   - Add that services will be reviewed by a licensed mental health professional at specified intervals to insure proper utilization of this service.

5. Crisis Intervention Services: Add prescreener or QMHP as providers

6. Intensive Community Treatment: Change to state that rationale for the provision of services in the clinic must be documented.

7. Intensive In Home:

   - Add clarifying language that services may be rendered in the community

   - Remove the statement "rendered solely to an eligible child" from 12VAC30-130-550

- Change the minimum requirement from 5 hours of service per week to 3 hours per week and require that: the need for more intensive services than can be provided in outpatient clinics, be documented.

- Remove the specifications for caseload size and require that sufficient staff is available to meet the identified needs of the child.

- Add to 12VAC30-60-61, that the Intensive In Home services provider must be licensed by DMHMRSAS as an Intensive In Home provider.

## Alternatives

*Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.*

Alternatives were discussed between DMAS, DMHMRSAS, affected providers, and consumers who participated in the dedicated workgroup. Some of the alternative policies that were considered in the development of this package are:

1. The workgroup considered leaving in the requirement for "a history of hospitalization" as a requirement for receipt of mental health support services. This is recommended to be removed.

2. The workgroup considered discontinuing the coverage of mental health support services in assisted living facilities. This is recommended to remain in these regulations.

3. The workgroup discussed having a monthly limit for mental health services as opposed to an annual limit. The annual limit is recommended here as the preferred policy as it allows more intense services to be delivered at the initiation of services.

4. The workgroup considered allowing some intensive community treatment services to be delivered in mental health clinics. Currently, all services must be delivered in the community.

5. The workgroup considered the minimum requirement of five hours of service per week for intensive in-home services. The group recommended the removal of this minimum amount of service to allow flexibility. DMAS is proposing a minimum of three hours be established.

## Family Impact Statement

*Please provide a preliminary analysis of the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen*

*or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

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This regulatory action will not have any negative effects on the institution of the family or family stability. It will not increase or decrease disposable family income or erode the marital commitment. It will not discourage economic self-sufficiency, self-pride, or the assumption of family responsibilities.