

Proposed Regulatory Changes for Office of Developmental Programs (ODP) Providers

Below is a comparison of the current regulations (Chapter 51) and the proposed changes (Chapter 6100) in three key areas

<p>Incident Management</p>	<p>§ 51.17. Incident management. (a) In accordance with Chapter 6000, Subchapter Q (relating to incident management) and the Department’s Certified Investigator Manual on the Department’s web site, a provider shall report incidents to the Department and ensure that a certified investigation is conducted. (b) A provider shall take prompt action to protect the participant’s health, safety and rights when an incident has been discovered or has occurred. The Department will establish participant rights by Departmental guidelines. (c) A provider shall report any of the following incidents in HCSIS within 24 hours of the discovery or occurrence of the incident: (1) Death. (2) Suicide attempt. (3) Hospitalization. (4) Psychiatric hospitalization. (5) Emergency room visit. (6) Abuse as follows: (i) Physical abuse. (ii) Psychological abuse. (iii) Sexual abuse. (iv) Verbal abuse. (v) Improper or unauthorized use of restraint. (7) Individual to individual abuse. (8) Neglect. (9) Missing person. (10) Law enforcement. (11) Injury requiring treatment beyond first aid. (12) Disease reportable to the Department of Health. (13) Fire. (14) Misuse of funds. (15) Participant rights violation. (16) Emergency closure. (17) Crisis event. (18) Restraint. (d) A provider shall report any of the following incidents in HCSIS within 72</p>	<p>§ 6100.401. Types of incidents and timelines for reporting. (a) The provider shall report the following incidents, alleged incidents and suspected incidents through the Department’s information management system within 24 hours of discovery by a staff person: (1) Death. (2) Suicide attempt. (3) Inpatient admission to a hospital. (4) Emergency room visit. (5) Abuse. (6) Neglect. (7) Exploitation. (8) Missing individual. (9) Law enforcement activity. (10) Injury requiring treatment beyond first aid. (11) Fire requiring the services of the fire department. (12) Emergency closure. (13) Use of a restraint. (14) Theft or misuse of individual funds. (15) A violation of individual rights. (16) A medication administration error, including prescription and over the counter medication administration errors. (17) A critical health and safety event that requires immediate intervention such a significant behavioral event or trauma. (b) The individual, and persons designated by the individual, shall be notified immediately upon discovery of an incident relating to the individual. (c) The provider shall keep documentation of the notification in subsection (b). (d) The incident report, redacted to exclude information about another individual and the reporter, unless the reporter is the individual who receives the report, shall be available to the individual, and persons designated by the individual, upon request. § 6100.402. Incident investigation. (a) The provider shall take immediate action to protect the health, safety and well being of the individual following the</p>
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	<p>hours of the discovery or occurrence of an incident:</p> <p>(1) Medication administration error.</p> <p>(2) Restraint unless the restraint falls into the definition of “abuse” in §51.3 (relating to definitions).</p> <p>(e) A provider shall fax or scan an incident report to the Department if HCSIS is not available within 24 hours or 72 hours depending on the incident type as described under subsections (a)—(c). When HCSIS becomes available, the provider shall immediately enter the incident into HCSIS.</p> <p>(f) For incidents that are to be reported within 24 hours of the discovery or occurrence, a provider shall finalize the incident report in HCSIS by including additional information about the incident, results of a required investigation and corrective actions within 30 days of the discovery or occurrence of the incident, unless the deadline is extended in HCSIS.</p> <p>(g) A provider shall provide a detailed description in HCSIS of the actions taken in response to an incident to include:</p> <p>(1) The prompt action to protect the health and welfare of the participant.</p> <p>(2) The results of the incident investigation.</p> <p>(3) Corrective actions taken.</p> <p>(4) The staff that is responsible for implementing the actions.</p> <p>(5) The date the actions were implemented or are planned.</p> <p>(6) Specific information regarding disciplinary actions taken with staff to assure the health and welfare of participants.</p> <p>(h) A provider shall review and analyze incidents at least quarterly or more frequently as required by the Department. This quarterly review must contain information on the incident target.</p> <p>(i) A provider shall submit reports regarding its review and analysis of incidents to the Department or the Department’s designee, upon request.</p> <p>(j) A provider shall identify and implement actions to assure a participant is safeguarded from risk so the number of preventable incidents is reduced.</p>	<p>initial knowledge or notice of an incident, alleged incident and suspected incident.</p> <p>(b) The provider shall initiate an investigation of an incident within 24 hours of discovery by a staff person.</p> <p>(c) A Department-certified incident investigator shall conduct the investigation of the incident listed under §6100.401(a) (relating to types of incidents and timelines for reporting).</p> <p>§ 6100.403. Individual needs.</p> <p>(a) In investigating an incident, the provider shall review and consider the following needs of the affected individual:</p> <p>(1) Potential risks.</p> <p>(2) Health care information.</p> <p>(3) Medication history and current medication.</p> <p>(4) Behavioral health history.</p> <p>(5) Incident history.</p> <p>(6) Social needs.</p> <p>(7) Environmental needs.</p> <p>(8) Personal safety.</p> <p>(b) The provider shall monitor an individual’s risk for recurring incidents and implement corrective action, as appropriate.</p> <p>(c) The provider shall work cooperatively with the support coordinator or targeted support manager and the PSP team, to revise the individual’s PSP if indicated by the incident.</p> <p>§ 6100.404. Final incident report.</p> <p>(a) The provider shall finalize the incident report in the Department’s information management system within 30 days of discovery of the incident by a staff person.</p> <p>(b) The provider shall provide the following information to the Department as part of the final incident report:</p> <p>(1) Additional detail about the incident.</p> <p>(2) The results of the incident investigation.</p> <p>(3) A description of the corrective action taken in response to an incident.</p> <p>(4) Action taken to protect the health, safety and well-being of the individual.</p>
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	<p>(k) A provider shall assure that its staff receive annual incident management training on preventing, recognizing, reporting and responding to incidents and assuring a participant is safe as required under § 51.23 (relating to provider training).</p> <p>(l) A provider shall provide additional training to the participant and staff as needed based on the incident circumstances.</p> <p>(m) A provider shall analyze data on a participant to continuously improve HCBS delivery and to mitigate and manage risk factors.</p> <p>(n) A provider shall respond to actions designated by the Department or the Department's designee as a result of the management review of an incident.</p> <p>(o) An SSW provider is responsible to report incidents to the common law employer.</p> <p>(p) Subsections (a)—(m) do not apply to an SSW provider.</p> <p>(q) Subsections (d)(2), (h), (i), (k) and (m) do not apply to a provider of HCBS in the Adult Autism Waiver.</p> <p>(r) Subsection (c)(17) and (18) does not apply to a provider of HCBS in the Consolidated and P/FDS Waiver.</p>	<p>(5) The person responsible for implementing the corrective action.</p> <p>(6) The date the corrective action was implemented or is to be implemented.</p> <p>§ 6100.405. Incident analysis.</p> <p>(a) The provider shall complete the following for each confirmed incident:</p> <p>(1) Analysis to determine the root cause of the incident.</p> <p>(2) Corrective action.</p> <p>(3) A strategy to address the potential risks to the individual.</p> <p>(b) The provider shall review and analyze incidents and conduct a trend analysis at least every 3 months.</p> <p>(c) The provider shall identify and implement preventive measures to reduce:</p> <p>(1) The number of incidents.</p> <p>(2) The severity of the risks associated with the incident.</p> <p>(3) The likelihood of an incident recurring.</p> <p>(d) The provider shall educate staff persons, others and the individual based on the circumstances of the incident.</p> <p>(e) The provider shall analyze incident data continuously and take actions to mitigate and manage risks.</p>
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<p>Provider Training</p>	<p>§ 51.23. Provider training.</p> <p>(a) A provider shall implement a standard annual training for the provider and staff. The standard annual training must contain at least the following:</p> <ol style="list-style-type: none"> (1) Department policy on intellectual disability principles and values. (2) Training to meet the needs of a participant as identified in the ISP. (3) QM plan. (4) Identification and prevention of abuse, neglect and exploitation of a participant. (5) Recognizing, reporting and investigating an incident. (6) Participant grievance resolution. (7) Department-issued policies or procedures. (8) Accurate billing and documentation of HCBS delivery. <p>(b) Before providing an HCBS to a participant, a provider shall ensure that its staff have met any additional pre- and in-service training requirements as detailed in a participant's ISP.</p> <p>(c) A provider shall retain documentation of completion of training for each staff.</p> <p>(d) A provider shall update annual training to reflect the Department's current policies and procedures and emerging practices.</p> <p>(e) This section does not apply to an SSW provider or to a provider of HCBS in the Adult Autism Waiver.</p>	<p>§ 6100.141. Annual training plan.</p> <p>(a) The provider shall design an annual training plan based on the needs of the individuals as specified in the individuals' PSPs, the provider's quality management plan and other data and analysis indicating training needs.</p> <p>(b) The annual training plan shall include the provider's orientation program as specified in §6100.142 (relating to orientation program).</p> <p>(c) The annual training plan shall include training aimed at improving the knowledge, skills and core competencies of the staff persons and others to be trained.</p> <p>(d) The annual training plan shall include the following:</p> <ol style="list-style-type: none"> (1) The title of the position to be trained. (2) The required training courses, including training course hours, for each position. (e) Records of orientation and training, including the training source, content, dates, length of training, copies of certificates received and persons attending shall be kept. (f) The provider shall keep a training record for each person trained. <p>§ 6100.142. Orientation program.</p> <p>(a) Prior to working alone with individuals, and, within 30 days after hire or starting to provide support to an individual the following shall complete an orientation program as described in subsection (b):</p> <ol style="list-style-type: none"> (1) Management, program, administrative and fiscal staff persons. (2) Dietary, housekeeping, maintenance and ancillary staff persons. (3) Direct support staff persons, including full and part time staff persons. (4) Household members who will provide reimbursed supports to the individual. (5) Life sharers. (6) Volunteers who will work alone with individuals. (7) Paid and unpaid interns who will work alone with individuals. (8) Consultants who will work alone with individuals.
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		<p>(b) The orientation program shall encompass the following areas:</p> <p>(1) The application of person-centered practices, including respecting rights, facilitating community integration, honoring choice and supporting individuals in maintaining relationships.</p> <p>(2) The prevention, detection and reporting of abuse, suspected abuse and alleged abuse in accordance with 35 P.S. §10225.701-10225.708 (relating to older adult protective services), 6 Pa. Code Chapter 15, 23 Pa.C.S. § 6301-6386 (relating to child protective services), 35 P.S. § 10210.101-10210.704 (relating to adult protective services) and applicable protective services regulations.</p> <p>(3) Individual rights.</p> <p>(4) Recognizing and reporting incidents.</p> <p>(5) Job-related knowledge and skills.</p> <p>§ 6100.143. Annual training.</p> <p>(a) The following persons shall complete 24 hours of training each year:</p> <p>(1) Direct support staff persons, including household members and life sharers who provide reimbursed support to the individual.</p> <p>(2) Direct supervisors of direct support staff persons.</p> <p>(b) The following staff persons and others shall complete 12 hours of training each year.</p> <p>(1) Management, program, administrative, fiscal, dietary, housekeeping, maintenance and ancillary staff persons.</p> <p>(2) Consultants who provide reimbursed supports to an individual and who work alone with individuals.</p> <p>(3) Volunteers who provide reimbursed supports to an individual and who work alone with individuals.</p> <p>(4) Paid and unpaid interns who provide reimbursed supports to an individual and who work alone with individuals.</p> <p>(c) A minimum of 8 of the annual training hours specified in subsections (a) and (b) shall encompass the following areas:</p> <p>(1) The application of person-centered practices, including respecting rights, facilitating community integration,</p>
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		<p>honoring choice and supporting individuals in maintaining relationships.</p> <p>(2) The prevention, detection and reporting of abuse, suspected abuse and alleged abuse in accordance with 35 P.S. § 10225.701-10225.708 (relating to older adult protective services), 6 Pa. Code Chapter 15, 23 Pa.C.S. §6301-6386 (relating to child protective services), 35 P.S. § 10210.101-10210.704 (relating to adult protective services) and applicable protective services regulations.</p> <p>(3) Individual rights.</p> <p>(4) Recognizing and reporting incidents.</p> <p>(5) The safe and appropriate use of positive interventions, if the person will provide a support to an individual with a dangerous behavior.</p> <p>(d) The balance of the annual training hours shall be in areas identified by the provider in the provider’s annual training plan in §6100.141 (relating to annual training plan).</p> <p>(e) All training, including the training courses identified in subsections (c) and (d), shall be included in the provider’s annual training plan.</p>
<p>Background Checks</p>	<p>§ 51.20. Criminal history checks.</p> <p>(a) A provider shall ensure that a criminal history check is obtained for staff.</p> <p>(b) The reporting requirements listed in this chapter are in addition to reporting requirements under Chapters 2380, 2390, 3800, 5310, 6400 and 6500, 6 Pa. Code Chapter 11 (relating to older adult daily living centers) and, when applicable, 28 Pa. Code Chapters 601 and 611 (relating to home health care agencies; and home care agencies and home care registries).</p> <p>(c) A provider shall apply for a criminal history check for staff prior to hiring.</p> <p>(d) A provider shall obtain a criminal history check in compliance with the following:</p> <p>(1) A report of criminal history record information from the Pennsylvania State Police or a statement from the Pennsylvania State Police that the State Police Central Repository does not contain information relating to that person</p>	<p>§ 6100.47. Criminal history checks.</p> <p>(a) Criminal history checks shall be completed for the following:</p> <p>(1) Full and part-time staff persons in any staff position.</p> <p>(2) Support coordinators, targeted support managers and base-funding support managers.</p> <p>(b) Criminal history checks shall be completed for the following persons who provide a support included in the PSP:</p> <p>(1) Household members who have direct contact with an individual.</p> <p>(2) Life sharers.</p> <p>(3) Consultants.</p> <p>(4) Paid or unpaid interns.</p> <p>(5) Volunteers.</p> <p>(c) Criminal history checks as specified in subsections (a) and (b) shall be completed in accordance with the following:</p> <p>(1) The Older Adult Protective Services Act and applicable regulations.</p>

	<p>under 18 Pa.C.S. §§9101—9183 (relating to Criminal History Record Information Act) if staff has been a resident of this Commonwealth for at least 2 years.</p> <p>(2) A report of Federal criminal history record information under the Federal Bureau of Investigation (FBI) appropriation of Title II of the act of October 25, 1972 (Pub. L. No. 92-544, 86 Stat. 1109) if staff has been a resident of this Commonwealth for less than 2 years or is currently a resident of another state.</p> <p>(e) Criminal history checks shall be in accordance with the Older Adults Protective Services Act (35 P. S. §§10225.101—10225.5102) and 6 Pa. Code Chapter 15 (relating to protective services for older adults).</p> <p>(f) The hiring policies shall be in accordance with the Department of Aging’s Older Adult Protective Services Act policy as posted on the Department of Aging’s web site</p> <p>(g) A copy of the final reports received from the Pennsylvania State Police and the FBI, if applicable, shall be kept in accordance with § 51.15 (relating to provider records).</p> <p>(h) Subsections (b), (c), (f) and (g) do not apply to an SSW provider.</p> <p>§ 51.21. Child abuse clearances.</p> <p>(a) A provider shall assure that a child abuse clearance is obtained for each staff that provides an HCBS to a minor.</p> <p>(b) If the provider serves a participant who is 17 years of age or younger, 23 Pa.C.S. §§6301—6386 (relating to Child Protective Services Law) is applicable.</p> <p>(c) A copy of the final child abuse clearance shall be kept in accordance with §51.15 (relating to provider records).</p> <p>(d) Subsection (c) does not apply to an SSW provider.</p>	<p>(2) The Child Protective Services Law and applicable regulations.</p> <p>(d) This section does not apply to natural supports.</p> <p>§ 6100.49. Child abuse history certification.</p> <p>A child abuse history certification shall be completed in accordance with the Child Protective Services Law and applicable regulations.</p>
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