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Hearing Date: 8/18/2020

Today's Date: 8/19/2020

Agency: Department of Mental Health and Addiction Services

Rule Number(s): 5122-29-09.1, 5122-30-31, 5122-30-32

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If no comments at the hearing, please check the box. ☐

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List organizations or individuals giving or submitting testimony before, during or after the public hearing and indicate the rule number(s) in question.

1. Ohio Children's Alliance - 5122-29-09.1, and 5122-30-32
2. The Ohio Council of Behavioral Health & Family Services Providers - 5122-29-09.1, and 5122-30-32
3. Public Children Services Association of Ohio
4. Carrington Kids
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## Hearing Summary Report

### **Consolidated Summary of Comments Received**

Please review all comments received and complete a consolidated summary paragraph of the comments and indicate the rule number(s).

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The Ohio Council and the Ohio Children's Alliance expressed concerns that some providers will not want to meet QRTP standards or will be unable to meet QRTP standards by the October 1, 2020 deadline.

The Ohio Council also expressed concern over the six-month post discharge requirement for aftercare in both 5122-30-32 and 5122-29-09.1. Their concerns is the provision of services to individuals who are no longer patients/clients and how to reflect the service provision correctly.

Carrington Kids commented on the new requirement in the background check rule, 5122-30-31, that employees must have a completed background check prior to beginning work, and that this could present difficulties in hiring and onboarding.

The Public Children Services Association of Ohio commented that the costs of the QRTP standards may impact local child serving agencies negatively and that capacity has not been taken into account in the implementation of these standards. They also express similar concerns as others about residential facilities being designated as QRTPs while the facility is not yet in compliance with the QRTP standards.

## Hearing Summary Report

### **Incorporated Comments into Rule(s)**

Indicate how comments received during the hearing process were incorporated into the rule(s). If no comments were incorporated, explain why not.

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The Department cannot make any change to the background check rule as requested by Carrington Kids. The requirement referenced regarding the timing of background checks is a requirement set by the federal Family First Prevention Services Act. This is not a change in which the Department has the ability to be flexible.

In regards to the aftercare issues presented by the Ohio Council, MHAS presented these concerns to the multi-agency group developing these rules and the state's QRTP program. While we are not changing the rule as filed, a working group that includes the Department of Medicaid is in the process of addressing the payment issues presented for the post-discharge aftercare.

The Department did revise file rules 5122-29-09.1 and 5122-30-32 on August 18, 2020. The revisions are meant to address the concerns about paragraph (A) in both rules that were presented by multiple commenters. The revised rule does not explicitly designate any provider or residential facility as a QRTP. Providers or facilities that meet the requirements of the first sentence of the paragraph are only required to meet the standards in this rule by the appropriate dates. The Department is not directly designating any entity as a QRTP.

## Henry, Howard

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**From:** Whitney M <whitneym@carringtonkids.org>  
**Sent:** Tuesday, August 18, 2020 4:52 PM  
**To:** Henry, Howard  
**Subject:** FW: Background Check Requirements

**Categories:** CAUTION: This is an external email and may not be safe. If the email looks suspicious please click the Phish Alert Button.

Dear Mr. Henry,

Thank you for the opportunity to participate in this morning's public hearing. Carrington and several peer agencies have concerns with the following change to Background Check Requirements: "BCI and FBI criminal record checks must be completed and the results on file at the agency prior to the date of hire of new staff."

The greatest assets of the agency are our staff; we rely on vested, trauma informed staff. This poses a significant challenge to onboarding new talent as it can take upwards of two months to receive the results of these background checks and the good candidates move on. Can we truncate the background check process or stay with some form of voluntary disclosure to bridge us to a formal result?

Best,

*Whitney McSparran*

Whitney McSparran LPCC  
Director of Clinical Services  
2114 Noble Rd  
Cleveland, OH 44112  
216-970-4128



*Where positive outcomes begin with care.....*

*Carrington's mission is to provide sanctuary with innovative, effective, short-term residential and outpatient behavioral health services to youth and their families, building on strengths to promote recovery, positive relationships, and successful integration into the community.*

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JCARR Public Comments on OhioMHAS Rule 5122-30-32 and 5122-29-09.1

Teresa Lampl, LISW-S, CEO

August 18, 2020

Thank you for the opportunity to provide public comments on the new OhioMHAS residential licensure rule, OAC 5122-30-32 Qualified Residential Treatment Program (QRPT) and 5122-29-09.1 SUD Qualified Residential Treatment Program for Youth. We appreciate the collaboration with Department staff to date, which includes joining the Ohio Council's July meetings of our Youth & Family Services and ADAS policy committees to discuss the department's proposed rules implementing QRPTs and subsequent follow up discussions on this matter to address the concerns articulated below.

While we appreciate the state's need to fully define QRPTs across all child serving systems to implement the federal Family First Prevention Services Act (FFPSA), we have significant concerns regarding the timing and implication of this from a mental health service access and financing perspective. As presented, the rule in (A) asserts as a matter of policy that all Class 1 licensed residential programs serving adolescents are defined as a QRPT on the effective date of the rule even though the rule then allows currently licensed program time to come into compliance with meeting the conditions of being a QRPT at later dates. This statement in (A) of the rule is expected to have Medicaid payment implications that will result in MHAS licensed programs no longer seeking Medicaid reimbursement. This will result in a significant cost shift of mental health treatment services to local government via public children's service agencies and/or families that will be disruptive to treatment access and continuity of care.

We understand OhioMHAS, in partnership with ODJFS, ODM, and other state agencies, is moving forward to meet the timelines established under FFPSA that have not been relaxed under the federal public health emergency. However, unless this rule is modified to clarify the licensed MH program is only a QRPT after complying with the conditions outlined in the rule, we anticipate that many child-serving OhioMHAS licensed MH residential treatment providers will be compelled to cease accepting Medicaid payments after October 1, 2020. Certified adolescent SUD providers, while equally concerned, are currently operating under the approved 1115 SUD Waiver and plan to work toward a resolution through 2024.

**RECOMMENDATION:** To support licensed MH residential treatment providers serving adolescents in sustaining access to this level of care and minimizing a cost shift to local government and families, we would recommend amending the proposed language in OAC 5122-30-32 (A) to expressly state that a licensed MH residential facility is a QRPT only after the organization is in compliance with the rule.

(A) A class one residential facility that is licensed by the Ohio department of mental health and addiction services (OhioMHAS) and accepts children (youth) for placement ~~is considered a must~~ **comply with the** QRPT ~~and shall comply with the QRTP~~ requirements in this rule. Residential facilities whose initial licensure date is on or after October 1, 2020 are to be compliant with this rule in order to become licensed. Facilities licensed prior to October 1, 2020 have until October 1, 2024 to become compliant with the requirements related to meeting QRTP standards. In order to maintain title IV-E reimbursability, residential facilities are to meet QRTP standards by October 1, 2021.

Additionally, both MH and SUD providers expressed concerns regarding (B)(6)(d)-(f) in both OAC 5122-30-31 and 5122-29-09.1 regarding the required 6 month post discharge support and follow-up. We understand FFPSA requires this and we agree in principle that continuity of care is important to sustaining treatment gains from residential placement. However, we feel strongly this section of the rules requires modification to include language supporting permitted warm hand-offs and connection to local treatment providers when the residential provider will not be the primary BH provider post-discharge. Requiring monthly contact for six month may interfere with and prolong the transition needlessly, adds additional team members that are no longer actively involved in treatment, and may serve to confuse families about services and treatment direction. Further, in today's Medicaid overpayment compliance and audit focused environment, providers would be compelled to meet the letter of the rule or be at risk for audit findings and overpayments. While OhioMHAS, ODJFS and other state partners anticipate offering similar information through guidance documents, that would not lessen the providers obligation or risks and would be better served by placing those additional considerations in rule.

RECOMMENDATIONS: In both OAC 5122-29-09.1 and 5122-30-32, revise to include:

(B)(6)(d) Include at least a six-month period of support after discharge, even if the youth reaches the age of majority, **when remaining the primary MH or SUD service provider following discharge.**

(e) Be provided within the youth or family's community as appropriate to promote continuity of care **and include a referral, linkage, and connection to local MH and/or SUD service providers for in-home and/or community-based services.**

(f) Be individualized and driven by the youth/young adult, the caregivers and the family as appropriate, and include the following **when remaining the primary MH or SUD service provider:**

(i) Monthly contact with the youth and caregivers to promote and maintain engagement and to regularly evaluate the family's needs. Monthly contact may be in person, through interactive videoconferencing, or via phone or other electronic means.

(ii) Coordinate engagement with any applicable community providers serving the youth or family. The QRTP will ensure they make themselves available to the community providers for ongoing consultation, and document the consultation in writing. Documentation should include all resources and supports needed and detail how the resources and supports will be provided.

(iii) Written documentation provided to all participants of the discharge plan prior to discharge with information on how to access additional supports from the QRTP and community providers including contact information and steps required to access each provider

Thank you for the continuing collaboration and consideration of these recommendations that are highly nuanced and technical aspects related to Medicaid program compliance. I understand you and your state partners are working to craft language that will address these issues and I look forward to finding a pragmatic solution in the coming days.



Safe Children, Stable Families, Supportive Communities

August 18, 2020

Ohio Department Mental Health and Addiction Services  
c/o Bureau of Legal Services  
30 East Broad Street, 36<sup>th</sup> Floor  
Columbus, OH 43215-3430  
via email: [MH-SOTrules@mha.ohio.gov](mailto:MH-SOTrules@mha.ohio.gov)

Dear Sir or Madame:

PCSAO is a membership-driven association of Ohio's County Public Children Services Agencies that advocates for and promotes children services program excellence and sound public policy for safe children, stable families, and supportive communities. Thank you for this opportunity to provide written testimony on 5122-30-02, "Qualified Residential Treatment Program (QRTP)".

We appreciate the collaborative approach that was used for developing this rule in partnership with the Ohio Department of Job and Family Services (ODJFS). We also appreciate the Ohio Department of Mental Health and Addiction Services' (OMHAS) leadership in being responsive to the federal requirements pertaining to this rule and involving multiple stakeholders in its design.

However, PCSAO remains concerned that cost implications for Public Children Services Agencies have not been examined. The Rule Summary and Fiscal Analysis states that this rule does not increase local government costs. We believe the rule indeed may increase costs to county Public Children Services Agencies for the following reasons.

Agencies certified as residential facilities prior to October 1, 2020 have until October 1, 2024 (5122-30-02 (A)) to become compliant with QRTP requirements. We understand this decision was made to maintain current capacity for residential facilities as they transition to the new requirements and that the phase-in process for currently licensed agencies was reviewed and agreed upon by the Family First Prevention Services Act (Family First).

Throughout the Family First planning process, PCSAs have raised a range of questions regarding placement issues come October 2021, including:

- What QRTP capacity will be needed, given the more stringent requirements for placing youth in residential facilities? And, related, what foster home capacity is



needed to serve youth—factoring in those who will not meet the criteria for residential placement?

- What impact will the new Q RTP requirements have on placement costs? Can ODJFS work with us to estimate potential placement costs as of Oct. 2021, keeping in mind that 1) Q RTP rates will likely increase, and 2) there may be a shortage of Q RTP's if existing facilities are not able to fully meet the new requirements by Oct. 2021, leaving PCSAs without the Title IV-E reimbursement for eligible youth.

These questions come from a place of deep concern for PCSAs. Placement costs have escalated due to more kids coming into care and to those kids having more complex needs. Many agencies have expressed that even with the increased investment in children services in this biennium – which is greatly appreciated --- much of the investment is going to increased placement costs. In addition, PCSAs continue to face challenges in finding placements for youth with these complex needs. Knowing that October 2021 is just over 13 months away, these questions continue to be important and will need addressed for successful implementation of the Family First Prevention Services Act.

We respectfully request that OMHAS work with ODJFS, PCSAO, our member agencies, and stakeholders from private child caring providers representing these facilities to develop an estimate for what those increased costs may be and develop a plan to meet those costs. 5122-30-02 (A) states: "...In order to maintain Title IV-E reimbursability, residential facilities are to meet Q RTP standards by October 1, 2021". However, 5122-30-02 (A) also states "Facilities licensed prior to October 1, 2020 have until October 1, 2024 to become compliant with the requirements related to meeting Q RTP standards". Thus, this could create a three-year window during which federal Title IV-E funding is not available to reimburse county Public Children Services Agencies for placements at these facilities. With the current and expected budget deficits this is an especially difficult time for PCSAs to absorb potential extra costs.

In addition, we have recently become concerned with the first sentence in 5122-30-02 (A) which states: "A class one residential facility that is licensed by the Ohio department of mental health and addiction services (OhioMHAS) and accepts children (youth) for placement is considered a Q RTP and is to comply with the requirements in this rule."

There could be some technical and fiscal implications with this very sentence if class one residential facilities that are licensed and do accept children for placement are deemed a qualified residential treatment program (Q RTP) prior to coming into compliance with the new Q RTP requirements. We support the decision that was made to have all residential facilities that accept children for placements, whether licensed by ODJFS or OhioMHAS, to meet the Q RTP requirements. We also understand ODJFS, in partnership with OhioMHAS and other state agencies, is moving forward to meet the timelines established under Family First as they have not been relaxed under the federal public health emergency. However, deeming all licensed facilities that accept children for placement as Q RTPs prior to being required to meet the Q RTP requirements could cause facilities' concern regarding compliance. If such concern exists, facilities may be forced to shift additional costs (e.g., treatment, medical) to the county PCSAs.

This cost shift would be in addition to the room and board costs that county agencies currently pay these facilities. By Oct. 1, 2021, there could be facilities that shift the entire cost of residential placements (room, board, medical, and treatment) to county PCSAs and county agencies can no longer access any federal funding to offset such costs (Title IV-E for room and board; Medicaid for medical and treatment).

In order to avoid a possible significant cost shift and to reduce risk to providers related to Medicaid compliance, we recommend amending the proposed language in 5122-30-02 (A) to clearly define that a licensed OMHAS residential facility is considered a QRTP only after the facility is in compliance with the rule. Such a revision could be:

1. A class one residential facility that is licensed by the Ohio department of mental health and addiction services (OhioMHAS) and accepts children (youth) for placement is considered a QRTP ~~and is to comply~~ **and must comply** with the requirements in this rule. Residential facilities whose initial licensure date is on or after October 1, 2020 are to be compliant with this rule in order to become certified. Facilities licensed prior to October 1, 2020 have until October 1, 2024 to become compliant with the requirements related to meeting QRTP standards. In order to maintain title IV-E reimbursability, residential facilities are to meet QRTP standards by October 1, 2021.

Sincerely,



Angela Sausser, Executive Director  
[Angela@pcsao.org](mailto:Angela@pcsao.org)  
614.507.3113



# Ohio Children's Alliance

*Leading change for child and family service providers*

August 18, 2020

RE: QRTP Rule Testimony

To Whom It May Concern,

My name is Mark Mecum and I am the CEO of the Ohio Children's Alliance. Founded in 1973 as Ohio's first statewide child advocacy organization, the Ohio Children's Alliance provides leadership for Ohio's at-risk children, families, and community agencies. Our membership is composed of over 80 agencies throughout Ohio that provide foster care, behavioral health services, and residential services to over 100,000 children and family members each year.

We appreciate how collaborative the department has been with our organization in its development of the Qualified Residential Treatment Program (QRTP) implementation. While we do not have any concerns with the rule's standards we do have technical concerns about when the department will begin considering agencies compliant or approved as QRTPs.

Ideally, we request the department refrain from considering currently licensed agencies as QRTPs not earlier than October 1, 2021, which is the date that Ohio plans to fully implement the QRTP model pursuant to the federal Family First Prevention Services Act. We believe this technical change is prudent to ensure agencies operating QRTPs have time to prepare to comply with federal Medicaid mental health regulations. For many agencies, implementing a trauma-informed model and delivering mental health services is a transition that needs to be carefully planned.

We urge the department to revise Section A of the rule to ensure it clearly correlates QRTP classification with Ohio's implementation date

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of the Family First Prevention Services Act, which again is October 1, 2021. We would be happy to answer any questions about this matter. Thanks in advance for your collaboration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Mecum', with a stylized, cursive script.

Mark Mecum  
Chief Executive Officer  
[mark.mecum@ohiochildrensalliance.org](mailto:mark.mecum@ohiochildrensalliance.org)

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