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Hearing Date: 9/19/2019

Today's Date: 9/25/2019

Agency: Ohio Department of Mental Health and Addiction Services

Rule Number(s): 5122-25-01, 5122-25-02, 5122-25-03, 5122-25-04, 5122-25-05, 5122-25-07, 5122-25-08, 5122-26-01, 5122-26-06, 5122-26-12, 5122-26-13, 5122-26-15, 5122-26-16, 5122-26-17, 5122-26-18, 5122-27-01, 5122-27-03, 5122-27-04, 5122-27-05, 5122-27-06, 5122-27-07, 5122-27-09, 5122-29-09, and 5122-29-30

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

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

1. The Ohio Council of Behavioral Health and Family Services Providers
2. Ohio Guidestone
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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).

The Ohio Council had a constituent ask that the continuing education requirements for staff with state issued credentials in 5122-26-06 be shortened to 12 hours every two years instead of 20 hours every two years.

Ohio Guidestone provided comments and questions on several rules:

5122-25-01 – Did not understand the term “group practice” in (A)(2).

5122-25-07- Comments that a federal rule requires Medicaid overpayments to be repaid within 60 days of being identified.

5122-26-06 – Comments that there is confusion about what credentials means in paragraph (I)(1)(b). Requests that new employee orientation in (G)(5) be completed over a 90 day period. Comments that paragraphs (J) and (K) are overbroad with respect to contractors and volunteers. Comments that paragraph (O) would create new law in Ohio by allowing employees to have access to their own personnel files.

5122-27-03- Comments and questions if the rule intends to require addiction treatment case management plans to meet the same minimum requirements as an individualized treatment plan, and why a ninety day review of the case management plan is included in the rule.

5122-27-06 – Questions why the proposed language differs from the Medicaid rule.

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.

For the Ohio Council comment, the Department is going to keep the continuing education requirements at the same hours, the 20 hour requirement generally aligns with other credential programs. Keeping the requirements aligned provides for a baseline of training amongst all staff.

In response to the comments from Guidestone:

5122-25-01(A)(2) – When read in context the use of group practice is clear; the paragraph exempts individuals from a certification requirement even if they provide services within a sole proprietorship, partnership, or group practice. This is a well established term of art in the industry.

5122-25-07 – The proposed rule requires either the repayment of funds or the notification of Ohio Medicaid within thirty days of becoming aware of an employee falsifying information. The comment erroneously implies that the provider need investigate and quantify amounts to be repaid, they need only inform Ohio Medicaid of the misdeed.

5122-26-06

(I)(1)(b) – The comment is a misreading of the proposed rule. Paragraph (I)(1)(b) applies to staff who do not have a credential issued by a state board, and sets forth continuing education requirements for those staff. Paragraph (E) pertains to staff who should be credentialed by a state board and requires the provider to verify such credentials. Paragraph (D)(1)(b) pertains to minimum qualifications for a position included in a job description.

(G)(5) – The Department does not believe that any employee should need more than thirty days to learn the policies and procedure specific to their job duties.

(J) and (K) – The commenter has fundamentally misinterpreted these paragraphs. The line between employee and contractor or volunteer is not blurred. For instance, (J)(3) requires contract staff performance to be evaluated in accordance with the providers human resource management policies and procedures. The provider does not blur the line with contractors but is required to maintain a level of oversight of contract staff. A personnel file for volunteers is not overly burdensome, but rather good corporate practice. A reading of the rule will show that a minimum amount of information is required for most volunteers, but those doing more advanced work require more documentation. No matter the work done by volunteers, they are on site of a service provider and they present a risk that needs to be accounted for.

(O) – The commenter misread this paragraph. The rule requires that each employee have access to personnel policies and procedures, not their employment file.

5122-27-03

The commenter is correct in that the rule does for the most part combine an ITP and an addiction treatment case management plan. However, they are kept separate as the time for review for each is different, as set forth in paragraph (H).

Hearing Summary Report

5122-27-06 – The language being changed by the proposed rule is to match with what it is federally mandated by 42 CFR Part 2.