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May 11, 2009

Mary Ellen Imlau
Bureau of Policy Analysis and Appeals
Department of Human Services
Hoover State Office Building
1305 East Walnut Street
Des Moines, IA 50319-0114

Dear Ms. Imlau:

The Iowa State Association of Counties has several comments on, ARC 7717B, the Notice of Intended Action to amend Chapter 28, "Policies for All Institutions," and to rescind Chapter 29, "Mental Health Institutes," and Chapter 30, "State Resource Centers," Iowa Administrative Code, and adopt new Chapters 29 and 30 with the same titles. We agree with the Department that these proposed amendments generally technical in nature and reflect the current Department management structure for the facilities and remove obsolete forms and procedures to reflect current practice.

We would encourage the Department to review any changes in policy related to the State's six institutions with the MH/MR/DD/BI Commission. This communication with the Commission will ensure that changes are consistent with changes undertaken to improve the adult system of services for persons with disabilities.

The MH/MR/DD/BI Commission has had a work group for several years ironing out the issues related to "county of residence" for the purpose of moving the Iowa system away from county of legal settlement and to county of residence as the funder of services. The Commission recently adopted a definition of "county of residence" and this definition should be incorporated into these rule changes to avoid any confusion.

In section 29.3, the rules reference the "admitting county". This adds another player to the mix, if the admitting county is neither the county of residence nor the county of legal settlement. ISAC urges the department to use the county of residence and its definition rather than adding a new concept.

The rules should include the process for handling involuntary admissions.

Thank you for the opportunity to comment on these rules.

Sincerely,

A handwritten signature in black ink, reading "Linda Hinton". The signature is written in a cursive style with a large initial "L" and "H".

Linda Hinton

Government Relations Manager

Iowa State Association of Counties



STATE OF IOWA

CHESTER J. CULVER, GOVERNOR
PATTY JUDGE, LT. GOVERNOR

DEPARTMENT OF HUMAN SERVICES
CHARLES J. KROGMEIER, DIRECTOR

July 10, 2009

Linda Hinton, Governmental Relations Manager
Iowa State Association of Counties
501 SW 7th Street, Ste Q
Des Moines, IA 50309-4540

Dear Linda,

This is in response to the comments the Iowa State Association of Counties submitted regarding ARC 7717B, Notice of Intended Action to amend Chapter 28, "Policies for All Institutions," and to rescind Chapter 29, "Mental Health Institutes," and Chapter 30, "State Resource Centers," Iowa Administrative Code, and adopt new Chapters 29 and 30 with the same titles.

Your association had four comments concerning the rules:

1. You encouraged the Department to "review any changes in the policy related to the State's six institutions with the MH/MR/DD/BI Commission." The Department of Human Services will be mindful of that in the future.
2. You expressed concern about the use of the term "county of residence" in the rules and its meaning in relationship to the recent definition adopted by the MH/MR/DD/BI Commission. The Department of Human Services has added a definition of "county of residence" to the rule that references the definition adopted by the Commission.
3. You expressed concern about the use of the term "admitting county" as a new concept incorporated into these rules. The term has been in the Department of Human Services existing rules since October 1, 2005. I am unaware of any issues that have resulted from its use.

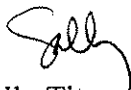
You suggested that the term "county of residence" be used in its stead. While most admissions come from the individual's county of residence, there can be times when the admitting county is neither the county of residence nor the county of legal settlement. The Department of Human Services institutions have to initially deal with the county of admission since the county of residence or legal settlement is not always self-evident. If you are still concerned, I would be happy to meet with you see if there is another way of resolving the issue.

Linda Hinton
July 10, 2009
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4. Your final suggestion was that these rules include a process for handling involuntary admissions. As you are aware the Code of Iowa sets forth the process for involuntary admissions and our policy manual for the facilities requires them to follow this process. Because this was a general recommendation, I am unclear as to what you believe needs to be addressed. I would be happy to meet with you to discuss possible rules.

Thank you for your comments.

Sincerely,



Sally Titus
Deputy Director for Field Operations

ST/ab:ht

cc: Aaron Baack
Nancy Freudenberg
Mary Ellen Imlau

From: [Lynn Ferrell](#)
To: [Policy Analysis](#)
Cc: [Linda Hinton \(lhinton@iowacounties.org\)](mailto:lhinton@iowacounties.org); "Amy Campbell"
Subject: Comments on ARC 7717B
Date: Thursday, May 07, 2009 3:23:12 PM

Polk County Health Services submits the following comments on the proposed revisions to existing rules:

The rules do not specifically define "county of residence". We believe the intent is to use the same definition as in the "residency rules" recently adopted by the MH/MR/DD/BI Commission. That definition should be cross-referenced in these rules so there is no ambiguity and so that the definition is consistent across programs.

Section 29.3 talks about the process for certifying legal settlement for voluntary admissions and treats the "admitting county" as if it is the county of residence (i.e., implies that the admission is approved by the county of residence). It is possible that the admitting county could be neither the county of residence nor the county of legal settlement, if the individual is in a facility or is in transit, in which case there is a gap in these rules. This potential gap needs to be closed.

The rules do not address the process for involuntary admissions, which could even more likely be situations where the admitting county isn't either county that needs to be involved. Involuntary admissions should be addressed in these rules.

It seems a little bizarre that visiting hours are defined by rule (29.7 and 30.6) rather than by the superintendents.

Rules 29.7(3) and 30.6(s) that say the attending physician or designee (MHIs) and social worker (SRCs) have to approve visitors contradict Rules 29.6(5)a and 30.5(5)a that say the individuals have the right to have a dignified existence with self-determination, making choices about aspects of the individual's life that are significant to the individual. We suggest erring on the side of allowing individuals to decide whom they will receive as visitors unless there is some medically compelling reason to not allow a particular individual to visit.

28.2(3) Exceptions to the catchment area rule can take up to 48 hours of the receipt of the request. If the person needs to be admitted and an MHI in another catchment is the only place that has a bed there should be some mechanism for the receiving hospital to decide to take someone without going through central office. MHI admissions are for medical treatment, and that treatment should not be delayed or denied by a centralized administrative process.

We suggest that 29.4(3) be changed so that client participation corresponds more to SSA rules of client participation. This would remove an institutional bias in the system by making client participation the same whether in a community facility or a state institution. It also would help ensure that consumers not accumulate so much in resources that they are ineligible for Medicaid upon discharge to the community.

Lynn Ferrell
Executive Director
Polk County Health Services
515-243-6339
FAX 515-243-8447



STATE OF IOWA

CHESTER J. CULVER, GOVERNOR
PATTY JUDGE, LT. GOVERNOR

DEPARTMENT OF HUMAN SERVICES
CHARLES J. KROGMEIER, DIRECTOR

July 21, 2009

Lynn Ferrell, Executive Director
Polk County Health Services
Fleming Building
218 6th Ave - Suite 1000
Des Moines, IA 50309

Dear Lynn,

This is in response to the comments you submitted regarding ARC 7717B, Notice of Intended Action to amend Chapter 28, "Policies for All Institutions," and to rescind Chapter 29, "Mental Health Institutes," and Chapter 30, "State Resource Centers," Iowa Administrative Code, and adopt new Chapters 29 and 30 with the same titles.

You expressed concern about the definition of the term "county of residence" and its relationship to the recent definition adopted by the MH/MR/DD/BI Commission. The Department of Human Services has added a definition of "county of residence" to the rule that references the definition adopted by the Commission.

You expressed concern about rule section 29.3, and how the county of admission relates to the county of residence. I agree that the county of admission may or may not be the county of residence or legal settlement. This rule is written from that perspective by requiring that the notice be given to the county of admission. The Department of Human Services institutions have to initially deal with the county of admission since the county of residence or legal settlement is not always self-evident. You also expressed concern that this rule does not apply to involuntary admissions. Rule subsection 29.3(1) requires that the notice be given on all adult admissions, voluntary or involuntary.

You expressed concern about having visiting hours for the institutions established by central rule. I believe it is appropriate to publicly state what the visiting hours are and provide uniformity so individuals wishing to visit are not faced with varying times.

You expressed concern about rules 29.7(3) and 30.6(2) that require visitors be approved by the attending physician or the individual's social worker. I agree with your comment that these rules conflict with the rules concerning self-determination. These rules will be removed from the final rules.

Lynn Ferrell
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You expressed concern about rule 28.2(3) allowing for up to 48 hours for central office approval of requests for exception to catchment areas. Your concern related specifically to MHI admissions when the MHI serving the catchment area does not have a bed. This rule is intended to cover situations where the individual or the court for some other reason is requesting that an out of catchment area placement be made. For the emergency situations you describe we have a specific policy in Employee's Manual 3-A, Mental Health Institutes. The MHI, when confronted with not having a bed available, is required to; notify the central point of coordination or the committing court of the lack of a bed; contact the other MHI's to determine if a bed is available; if the bed is available, to coordinate the referral; or if no bed is available, to assist in trying to find another appropriate placement.

You expressed concern about rule 29.4(3) that establishes the liability limit for the support of an individual with mental illness hospitalized for more that 120 days. This rule implements the requirement placed on the Department of Human Services by section 230.15. The Department is required to set the liability "in an amount not in excess of the average minimum cost of the maintenance of an individual who is physically and mentally healthy residing in the individual's own home." I believe the statute would have to be changed to implement your recommendation.

Thank you for your comments.

Sincerely,



Sally Titus
Deputy Director for Field Operations

ST/ht

cc: Aaron Baack
Nancy Freudenberg
Mary Ellen Imlau