

## **Regulations Implementation Project Subcommittee Meeting**

**February 23 and 24, 2016**

Access and Linkage Requirements and  
Measurement of Duration of Untreated Mental Illness

### **Overview and Scope**

During the latter part of 2015 the Commission formed a subcommittee to work with the County Behavioral Health Directors Association (CBHDA), counties, community mental health providers, and stakeholders on implementing the regulations that went into effect in October of 2015. The subcommittee includes Commissioner Larry Poaster (Chair), Commissioner Khatera Aslami-Tamplen, and Commissioner Richard Van Horn. The subcommittee is holding its first meeting on February 23 and 24, 2016. The focus of the first meeting is to identify key barriers to implementing the Prevention and Early Intervention (PEI) regulations requirements for Access and Linkage programs and strategies and the measurement of duration of untreated mental illness within those programs and strategies. The meeting also will explore practical approaches to address the barriers.

This overview provides a synopsis of how we got here.

### **History**

The voters passed Proposition 63, the Mental Health Services Act (MHSA) in November 2004 and it went into effect on January 1, 2005. The MHSA established the Mental Health Services Oversight and Accountability Commission (OAC) to oversee the community mental health systems of care and the MHSA. The California Department of Mental Health (DMH) administered the MHSA and had the authority to issue regulations to implement the Act. Prior to the Governor's reorganization in 2012 that eliminated the DMH, regulations for several parts of the MHSA had been issued. However, there were no regulations for several of the five components of the MHSA including PEI and Innovation. As part of the reorganization, Assembly Bill (AB) 1467 enacted in June 2012 transferred the authority to issue regulations for the MHSA to the Department of Health Care Service (DHCS).

### **Legislature Directed OAC to Issue Regulations**

In June 2013, AB 82 was enacted and mandated the OAC to adopt regulations for programs and expenditures for two of the five MHSA components: Prevention and Early Intervention and Innovation. As a result of this change in the law, there are two separate state entities with a statutory requirement to issue regulations to implement the MHSA. The OAC's authority is specific to PEI and Innovation.

### **Two-Year Public Comment Process to Develop Regulations**

Within two months of the enactment of AB 82, in August of 2013, the OAC convened a workgroup and held public meetings to gather feedback and ideas for the development of both the PEI and Innovation regulations. These meetings were attended by county behavioral health directors from various counties throughout the state, representatives of DHCS and other state agencies, clients and family members, representatives of diverse racial and ethnic communities, CBHDA, other stakeholders and community members.

From August 2013 through August 2015, the OAC held fifteen (15) public meetings, received hundreds of pages of public comment and heard hours and hours of testimony from counties, clients and family members,

representatives from diverse racial and ethnic communities, and members of the public. In response to this extensive public input the OAC developed and revised the draft regulations.

These PEI regulations provide a framework for counties to implement, evaluate, and report on their PEI programs. Under the regulations, counties, for the first time, are required to collect data on each PEI program and on an annual basis report that data to the OAC. The regulations also require the counties to submit to the OAC an evaluation of each PEI program every three years.

### **Office of Administrative Law (OAL) Approval**

Regulations, unlike statute enacted by the Legislature, are limited to “implementing, interpreting, or making specific” existing law. The regulations underwent a thorough and rigorous review by the OAL and in October 2015 OAL approved the PEI regulations determining that:

- (1) The OAC has the authority to issue the specific regulations;
- (2) The regulations correctly reference the specific law that they implement, interpret or make specific;
- (3) The regulations are consistent with the law;
- (4) The text of the regulations are clear;
- (5) The regulations are necessary; and
- (6) The OAC followed the procedural requirements for issuing the regulations.

The Department of Finance also determined that the regulations do not constitute a reimbursable state mandate.

### **Implementation of the Regulations Project**

Following adoption, in consultation with CBHDA and a number of counties, the following three requirements of the regulations were identified as requiring ongoing discussion to clarify how they would be addressed:

- (1) Demographic reporting categories;
- (2) Program and measurement requirements for Access and Linkage to Treatment for people with a serious mental illness; and
- (3) Measurement of duration of untreated mental illness within Access and Linkage to Treatment.

In response, the Commission formed a subcommittee of three Commissioners to work with CBHDA, counties, community mental health providers, and stakeholders on operationalizing the regulations in these three areas.

## **Project Scope**

### **Purpose of Project**

This project intends to ensure maximum capacity of counties to implement, evaluate, and report on PEI Programs and Innovative Projects that:

- Meet MHSa requirements and goals
- Reflect and support local priorities, diverse communities, and county characteristics and resources
- Provide useful program and evaluation data with no or minimal duplication of effort
- Promote local and statewide adoption of new best practices in behavioral health.

A project objective is for counties, DHCS, stakeholders, and the MHSOAC to develop a practice-based, dynamic understanding of PEI and Innovation regulations in order to:

- Assess their strengths, benefits, limits, challenges, and areas of needed support
- Expand shared understanding of the context in which counties will implement the regulations: for example, county and other data systems (available or in development), including electronic health records, and potentially relevant (overlapping, conflicting, congruent) reporting requirements
- Determine practical strategies to make implementing the regulations possible and useful
- Create consistencies between regulations and other requirements developed by DHCS and by MHSOAC
- Promote effective, ongoing collaboration to meet common goals and MHSA priorities.

The goal of the project is to develop appropriate approaches, supports, and transitions to make the implementation of the PEI and Innovations regulations successful. Collaborating in support of amending regulations in the future is possible and potentially beneficial for purposes of feasibility and quality improvement.

### **MHSOAC Subcommittee and Advisory Workgroup**

The MHSOAC will convene a subcommittee to develop recommendations to the MHSOAC about how best to implement regulations for Innovation and PEI. This subcommittee will be led by Commissioner Larry Poaster and will also include Commissioners Khatera Aslami-Tamplen and Richard Van Horn.

This subcommittee will be assisted by an advisory workgroup, which will incorporate a range of perspectives and expertise to ensure its recommendations appropriately balance statewide needs and responsibilities with local priorities and limited and varying resources. County behavioral health departments are central to advisory work group participation. The advisory workgroup will also include representatives of CBHDA, DHCS, and subject-matter experts including diverse people with risk of or experience of mental illness and their families. The workgroup will convene meetings throughout the regions of the State, which will be open to the public.

### **Project Agenda and Areas of Focus**

Meetings will support overall implementation of the regulations with a focus on the following identified issues of concern to many counties: (1) Demographic reporting categories; (2) Program and measurement requirements for Access and Linkage to Treatment for people with a serious mental illness; and (3) Measurement of duration of untreated mental illness. An overall context will be the need for consistency, integration, and inter-operability: among MHSA components and among broader dimensions of the healthcare system (e.g. MediCal). Consistency among requirements for which MHSOAC and DHCS are responsible is essential.

The initial meetings will do the following: (1) Define dimensions of the issues, including and not limited to the purpose and background of requirements addressed and posed by new regulations; (2) Identify and explore challenges counties, and service providers have related to new requirements; (3) Understand how counties are now addressing each topic area: for example, how are counties now linking people who are perceived to need assessment or extended treatment for a serious mental illness; (4) Brainstorm and explore a range of potential solutions to challenges; and (5) Move toward consensus regarding preferred solutions.

The Project will develop concrete recommendation to the MHSOAC regarding proposed solutions and a plan to implement and accomplish proposed solutions.

## **Project Schedule**

The initial meetings will occur during the first part of 2016. The overall project can be extended, if beneficial, to last at least a year, with projected completion expected by October 2016. The project will, if MHSOAC recommends, continue to identify any issues that emerge related to implementing the PEI and Innovation regulations and to collaborate on solutions. An extended timeframe could be useful to ensure that the assessment of the regulations and support for counties (and staff, providers, and clients and their families) is ongoing and is informed by experience.